

THE
T R I A L
O F

LIEUT. COL. THOMAS,

OF THE

12

FIRST REGIMENT OF FOOT-GUARDS,
ON A

C H A R G E

EXHIBITED BY

LIEUT. COL. COSMO GORDON,

For aspersing his Character,

By accusing him of NEGLECT of DUTY before the
Enemy, as Commanding Officer of the First Battalion
of Guards, on the 23d of June, 1780, near SPRING-
FIELD, in the JERSEYS :

CONTAINING

THE WHOLE PROCEEDINGS

OF A

GENERAL COURT-MARTIAL,

Held at NEW-YORK on the 16th of SEPTEMBER last, and
continued by several Adjournments to the 26th of the same
Month.

L O N D O N :

Printed for J. RIDLEY, in ST. JAMES'S STREET.

MDCCCLXXI.

THE
T R I A L

OF THE

FIRST REGIMENT OF FOOT GUARDS

C H A R G E

BY
LIEUT. COL. COSMO GORDON



By a young man of name, DOUGLAS, before the
Court, as a Commissioned Officer of the First Battalion
of Guards, on the 1st of June, 1855, with 2000
men in the ranks.

GENERAL COURT-MARTIAL

Held at NEW-YORK on the 15th of September, 1855,
and continued by adjournment to the 20th of the same
month.

L O N D O N
Printed by J. H. B. [illegible]
[illegible]

PROCEEDINGS, &c.

AT a General Court-Martial held at New-York, in the province of New-York, on Friday the 15th of September, and continued by adjournments to Monday the 25th, 1780, by virtue of a warrant from His Excellency Sir Henry Clinton, Knight of the most honourable Order of the Bath, General and Commander in chief of all his Majesty's forces within the colonies lying on the Atlantic Ocean, from Nova Scotia to West Florida inclusive, &c. &c. &c.

PRESIDENT.

Brigadier General John Leland, First Regiment of Guards.

MEMBERS.

Lieut. Col. Chapel Norton, Coldstream Guards
Major John Small, 84th Regiment
Major James Gordon, 80th Regiment

B

Capt.

~~Capt. Charles Horneek, 3d Guards~~
 Capt. William Maynard, Coldstream Guards
 Capt. Thomas Thompson, 57th Regiment
 Lieut. Col. John Gunning, 82d Regiment
 Major James Coffeau, 37th Regiment
 Major William Cowley, 22d Regiment
 Capt. Thomas Swanton, 3d Guards
 Capt. John Murray, 80th Regiment
 Capt. Edward Fage, Royal Artillery.

DEPUTY JUDGE-ADVOCATE.

Stephen Payne Adye.

The President, Members, and Judge-Advocate, being duly sworn, previous to the Court proceeding to business, the Judge-Advocate judged it necessary to inform them, that the first trial he was ordered to bring before them, was that of Lieut. Col. THOMAS, upon a charge exhibited against him by Lieut. Col. GORDON; that, as both these Gentlemen belonged to His Majesty's Foot-Guards, and an article of war expressly declares, that all differences arising between Officers of the Horse and Foot Guards should be tried by Courts-Martial composed of those corps only, he begged leave to deliver a letter from His Excellency Sir Henry Clinton, addressed to Brigadier General Leland, as President

President of the Court, which letter was ordered to be read, and entered on the minutes of the Court, and was as follows:

Head Quarters, Sept. 14, 1780.

SIR,

A DIFFERENCE having arisen between Lieut. Col. Gordon and Lieut. Col. Thomas, of the Brigade of Guards, I judged it necessary to leave it to the decision of a Court-Martial; but there not being a sufficiency of Officers of that corps to form a Court-Martial, without drawing them from other essential duties, and thereby injuring the service and the Officers of the Brigade in general, as well as the contending parties having declared their wish that the Court should be composed of Officers of the Line, as well as of the Guards; I have ordered the difference in question to be brought before the General Court-Martial, of which you are President.

H. CLINTON.

Brigadier General LELAND.

Lieut. Col. Frederick Thomas, of His Majesty's First Regiment of Foot-Guards, came pri-

prisoner before the Court; and the following charge was exhibited against him by the Hon. Lieut. Col. Cosmo Gordon, of the Third Regiment of Foot-Guards, viz.

Lieut. Col. Gordon, Commandant of the Six Battalion Companies of the Brigade of British Guards, charges Lieut. Col. Thomas, Captain of a company in the first battalion, with *secretly and scandalously* aspersing his character, in a manner unlike an *Officer* and a *Gentleman*, during his absence from his command, in consequence of a hurt received the 23d of June last, on the return to camp, while he led his battalion on horseback, in the vicinity of the house of the Rebel Governor Livingston, of the Jerseys; Lieut. Col. Thomas saying, that he commanded the Guards the day of the 23d of June, when the heights of Springfield were taken possession of by Lieut. Col. Gordon, acting under the orders of Major General Matthew.

The following witnesses were then examined in support of the accusation.

Lieut. Col. GORDON, being duly sworn, deposed, that the first knowledge he acquired of the calumny, that had during his absence been heaped upon his character, was from Major of
Brigade

Brigade Collins, on the night of the 21st July, that in returning home to his quarters, between 9 and 10 o'clock, Major Collins then being also on his return to his tent, on the heights of Fordham, on their meeting, a conversation ensued, the purport of which was, after the common salutation, the many disagreeable consequences attending the differences arising amongst the Officers of the Brigade, they mutually regretting the many altercations and disputes that then subsisted, which were rather increasing than diminishing, and he (Col. Gordon) observed that nobody escaped; that he (Major Collins) had amongst the rest been concerned, as being in the predicament of much conversation, and many disagreeable circumstances: he added he supposed he conceived what he (Col. Gordon) meant, and mentioned a dispute relative to duty, owing to a difference of opinion in the subalterns, and the Major of Brigade: he also said, that he did every thing in his power, as he always wished to do, to prevent the dispute coming to extremity, and told him, that perhaps he did not know, that it had gone so far, as that some of the Gentlemen had proposed *sending him to Coventry*, an expression well known in the army; and that there was a paper handed about, which he (Col. Gordon) heard of, though he had not seen it, for the
 opinion

opinion of the Officers, in regard to what he
 was defective in; that he said at the same
 time, that he had mentioned to the Gentlemen,
 if there was any mistake with regard to his
 orders, he was convinced it was unintended,
 and, if any, produced from a mistake in keep-
 ing the roster, so far as related to the duty of
 the Gentlemen of the Guards, and of the Line;
 that Major Collins seemed hurt, and was a little
 warm, and made use of some expressions of
 resentment; that Major Collins then said, that
 with regard to him, (Lieut. Col. Gordon) he
 was in a predicament, and accused, and that
 he must take notice of it, — being accused, by
 an Officer under his command, of having neg-
 lected his duty, and reasons the most infamous
 to the character of a Gentleman, attached to
 that neglect; that he (Lieut. Col. Gordon) then
 told him, that he looked upon himself as infi-
 nitely obliged to him, and regarded it as a kind-
 ness he could never compensate for, that being
 the first he had ever heard of any insinuations
 derogatory to his honour as an Officer; that
 after some little more conversation, in which
 they lamented their being in such a situation,
 amongst so few officers, they parted, he (Lieut.
 Col. Gordon) declaring that he must take notice
 of what he had informed him of, that the day
 after

after (1st of August) he reserved for a consideration in what manner he should proceed; and about 7 o'clock in the morning of the 2d, he received a letter from Lieut. Col. Thomas, desiring an explanation of expressions he had made use of to Major of Brigade Collins, relative to the paper he had said he heard was handed about amongst the subalterns, and also desiring to know the purport of a letter he mentioned to Major Collins, to have wrote to Gen. Mathews; that he sent to Lieut. Col. Thomas, he would answer him in person, (the hour of parade in camp being 8 o'clock) he thought as this subject might be talked of afterwards, he asked permission of Lieut. Col. Stewart, to go into his *Whigham* after the parade; Major Collins wishing to have a little explanation relative to his affair, this was very soon amicably settled, by being properly explained, and he (Lieut. Col. Gordon) then addressed himself to the gentlemen of the first battalion, which was immediately under his command, and told them that he had been informed, that during his absence from his command, in consequence of the hurt he had received in the Jerseys, he had been scandalously and secretly traduced by an Officer, whom he commanded: he told the Gentlemen, that if by accident the person aspersing his character

character was present, he hoped he would stand forth and acknowledge what he had declared, reflecting upon his honour and duty as an Officer: there was then an interval of silence, which occasioned his (Lieut. Col. Gordon's) looking particularly earnest at one of the Officers; but no avowal ensuing, he desired the Major of Brigade to give an order for the assembling all Officers of the two Battalions under his command at 12 o'clock, (with the permission of Col. Stewart, in his Whigham) that when they met, he addressed the whole, saying he was informed he had been grossly calumniated during his unfortunate absence from his command, and requested, if the Officer was present who charged him with an improper neglect of duty, he would be candid and manly enough to declare it; there was a second silence ensued, which was irksome, and which occasioned one of the gentlemen to say, that perhaps the Officer was not there; but, after another short period of silence, Major Collins, seeming very uneasy, said it would be a very ungracious and disagreeable thing for him, to be obliged to be the informer: he (Lieut. Col. Gordon) frankly confessed that the office would not be agreeable; but in the predicament that he (Col. Gordon) stood, his honour being at stake, if the person calumniating him did not

not avow himself, he should be under the disagreeable necessity of insisting that he (Major Collins) should impeach him; when, after another silence, and a few looks directed at a particular Officer, Lieut. Col. Thomas arose, and avowed that he was the person; that he (Lieut. Col. Gordon) thinking that he had a very proper right as a commanding officer, desired Major of Brigade Collins to put Lieut. Col. Thomas in arrest, as a secret defamer of his honour during his absence; and, making an apology to the Major of Brigade, desired him to take his sword, and that he would send for the Adjutant immediately; that he then desired to know what specific charge Lieut. Col. Thomas had against him, in writing, and the Major of Brigade wrote down with a pencil the paper marked No. 1. *— The Major of Brigade asked whether he chose to have him in a rigid arrest, confined to his tent, or at large? He answered, at large, with the liberty of the camp, and the post; making use of this expression, which was the last, that *he thanked his God, he had not a rancorous heart.* And the meeting then broke up.

The Court adjourned till next morning, at 10 o'clock.

* See a copy of this paper at the end of the *Proceedings*.

Saturday, Sept. 16th, 1780.

THE Court being met, pursuant to adjournment,

LIEUT. Col. GORDON further deposed, that at three o'clock in the morning of the 23d of June he joined his command of the first battalion of Guards, and went with them till they were within a quarter of a mile of Livingston's house; at this period, no firing having happened, he proposed to Col. Norton to canter on in front to see the Ladies at the *Rebel* Governor's house, and Capts. Boscawen and Goodricke went with them; that, after five minutes conversation, and having received what intelligence he wished to have, they made their bow, and rejoined the column that was then passing nearly opposite; that this happened about four o'clock, or a little after, and he continued with the first battalion, till, in obedience to the orders of Major-General Matthew, (Lieut. Col. Howard being absent on another duty) he took the command of the six battalion companies, which were ordered to advance beyond the town of Springfield on the right, under.

under the hanging wood, where the fire-signal stood, then occupied by two rebel brigades and the militia, who had been driven from the orchards in the bottom by the Guards battalion guns and those of a Hessian regiment, previous to his having received the honour of General Matthew's command; that, after having advanced about half a mile along the road, exposed to a flank fire from the Rebels, who occupied the edge of the hanging wood on their right, at this time he perceived a rising ground, which he (Lieut. Col. Gordon) thought proper to take possession of, and which crossed the rear of the town of Springfield: the column going in a direct line close to this height, he continued towards the centre of his command till the first battalion, followed close in divisions by the second, ascended the height, where he formed them facing outwards towards the enemy, and ordered them to halt, recommending to the men to lie on their arms under the shade of the bushes; it being about noon and excessively hot, and the men a good deal blown by a rapid march, he thought that he might safely permit this rest and indulgence, as he had previously examined their position, and did not see any of the enemy near, the firing from the wood having also ceased at this time:

that, after having made this disposition, he went towards some of the Officers who were standing at some little distance, when he overheard some expressions between Lieut. Col. Stewart and (then) Capt. Thomas, hinting their not having received orders; that, having done what he (Lieut. Col. Gordon) thought proper in the situation of his command, he avoided joining in a conversation which he presumed was in no manner necessary, as it is his opinion that the commanding officer of a detachment or corps is only answerable to his superiors in command: that he has a high respect for the gentlemen, subalterns of the army, in which rank he served himself near 18 years (the whole of the late war), never thinking it necessary that his commanding officers should require his approbation, opinion, or advice in points of duty. That he does not know what part of his conduct Lieut. Col. Thomas is pleased to censure: if he thinks that his (Lieut. Col. Gordon's) not being at the head of the front division was a neglect, he has only to observe, that, at the period they were fired at from the wood, he was generally towards the centre of his command, where, and towards the rear, the heaviest fire was, and where he thought his more immediate attention

tion due as the commanding officer. Circumstances might have made it necessary to return a fire from the rear companies; but afterwards he thought it of more consequence to gain the heights he mentioned before. The whole of the day he presumes that he did his duty, having never been absent from his command from three o'clock in the morning till he received the hurt, and afterwards having rejoined his command, and led the battalion till he dismissed them in camp. And, were the same circumstances in point of duty to happen again, there is not one part of his conduct that he should alter.

Q. (by the Court) to Lieut. Col. Gordon. At what period, on the 23d of June, did he take the command of the six battalion companies, and how long did he continue in that command?

A. About 12 o'clock at noon, he supposes, and retained that command till Lieut. Col. Howard rejoined them, which was in about three quarters of an hour after.

Q. (by Lieut. Col. Thomas.) Whether he (Lieut. Col. Gordon) has not declared to Adjutant Wilson, that Major of Brigade Collins had told him, that Lieut. Col. Thomas was the person that defamed his character?

A. It

A. It is very likely that he has, though he does not particularly recollect it.

Captain THOMAS COLLINS, Major of Brigade to the brigade of Foot Guards, being duly sworn, was examined.

Q. (By Lieut. Col. Gordon.) Did not he (the witness) on the night of the 31st of July, tell Col. Gordon, that he had been charged by an Officer with not doing his duty on the 23d of June, and that reasons the most infamous to the character of a Gentleman, were annexed to that charge?

A. As nearly as he can recollect, it was in the evening of the 30th of July, that he told Col. Gordon, in the course of conversation, that he had heard him spoken of in a manner that was highly prejudicial to his character as an Officer and a Soldier.

Q. Whether Lieut. Col. Gordon did not say that he guessed whom he meant, though he did not give him his name, and add at the same time, that he had wrote to Major Gen. Matthews, concerning a conversation he had had with Lieut. Col. Thomas, in passing the burned church at Springfield?

A. He remembers Col. Gordon saying that he guessed who the person was, from a conversation he had with him, and that he had wrote to Gen.

Gen. Mathews, or the General, (he does not recollect exactly the expression) on the subject : that he (the witness) added, that he did not look upon this matter as a secret, as he had heard it was made the topic of conversation at many tables or places ; in consequence of which he thought proper to inform Lieut. Col. Gordon of it, in order that he might justify his character, for his own honour, and that of the corps he served in ; that he should in course be ready to give up the author or authors of these assertions whenever he was called upon.

Q. (by the Court.) How soon after the 23d of June did he hear Lieut. Col. Thomas had objected to Lieut. Col. Gordon's conduct on that day? and were these objections made publickly, or secretly?

A. On the 23d of June, on the return of the army from Springfield, he was asked by an Officer whether he had heard of the altercation between Lieut. Col. Gordon and Lieut. Col. Thomas. His reply was, that he had not, having been a good deal absent from his own corps that day, in his attendance on the General ; but begged to know what it was. The Officer answered, that Lieut. Col. Thomas had very warmly attacked Lieut. Col. Gordon. He (the Witness) asked upon what subject he had attacked

attacked him. The answer was, it was upon points of duty that Col. Thomas had said to Col. Gordon, Where, Sir, have you been? I have sent very frequently for orders, but could get none; or other words to that effect, what he (the Officer) looked upon of such consequence as must bring on an immediate explanation from the parties on their return to camp.

Q. As he (the Witness) has said that he thought it proper to give Col. Gordon an information which would give him an opportunity of vindicating his honour, is it from hence to be inferred that he supposed Col. Gordon was till that time ignorant of the fact?

A. He could not suppose Col. Gordon, as may be inferred from his answer to a former question, to be ignorant of the fact, though he might be of the general manner in which it was spoken of: he further could not think him ignorant of the fact, because he heard one of the people who accused him, frequently and publicly express his surprise at neither Col. Gordon, or, if the Corps knew it, their not bringing the matter to an explanation.

Q. Did he ever hear Lieut. Col. Thomas himself declare that Lieut. Col. Gordon had been guilty of neglect of duty on the 23d of June?

A. He

A. He has heard Lieut. Col. Thomas frequently avow his accusation against Lieut. Col. Gordon; he has heard Lieut. Col. Thomas say that he had accused Lieut. Col. Gordon himself upon the heights of Springfield.

Q. Was this accusation by Lieut. Col. Thomas against Lieut. Col. Gordon made in a secret or public manner?

A. As publicly at his (the witness's) own table, or other tables they may have casually dined at, as could be; but never in confidence.

Q. (by Lieut. Col. Gordon.) Where was Lieut. Col. Gordon from the 23d of June, when he received his hurt, till the 27th of July, when he rejoined his command?

A. He was absent from the Brigade, and as he (the witness) heard, in New-York, in consequence of the hurt he had received.

Q. Does he (the witness) think that Lieut. Col. Gordon could hear of conversations that passed at his, or other tables, when he was at twelve miles distance from them?

A. He rather thinks that Col. Gordon did not hear of them, and for this reason he informed him of them.

Lieut. Col. JOSEPH BARTON, of the first battalion of the New-Jersey brigade of Provincials, being called upon, was examined.

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Q. (by *Lieut. Col. Gordon.*) Did not he (the witness) whilst he was on the flank of the brigade of Guards, on the 23d of June, see Lieut. Col. Gordon with his command?

A. He saw Lieut. Col. Gordon very frequently with his command in the course of the day.

Q. (by *the Court.*) Can he recollect any particular hour of that day that he saw Lieut. Col. Gordon with his command?

A. He cannot.

Q. Does he know of any objections made that day by Lieut. Col. Thomas to the conduct of Lieut. Col. Gordon?

A. No, he never heard till this morning that there was a dispute betwixt them.

Serjeant-Major THOMAS JARMAN, of the brigade of Guards, being duly sworn, was examined.

Q. (by *Lieut. Col. Gordon.*) Did not he see Col. Gordon with his command at three o'clock in the morning of the 23d of June?

A. Yes, he did.

Q. Whether he did not at different times of the march see Lieut. Col. Gordon with his command, either on horseback, or on foot?

A. He saw Lieut. Col. Gordon at different times on the march, but he did not see him at the time that Lieut. Col. Thomas's company

was

was ordered into an orchard, to support some other troops engaged there, nor till near an hour afterwards.

Q. Whether he did not see Lieut. Col. Gordon at the time the Guards ascended the heights beyond Springfield, and Col. Gordon made his disposition?

A. He did not.

Q. Was the first company upon those heights?

A. Yes, the whole battalion was, the flank companies excepted.

Q. Did he see Lieut. Col. Gordon returning from those heights to the second position they took?

A. Yes, he did.

Q. Did he not see Lieut. Col. Gordon, the whole time that they were at this position, sitting or standing by the men?

A. He did.

Q. Did not the men, upon seeing three columns of the enemy, with four pieces of cannon, coming down upon the left, desire Lieut. Col. Gordon to change their position?

A. He heard Col. Gordon apply to Col. Howard for leave to change the position; but he cannot say whether any application to this purpose was made by the men, as he was walking about in different parts of the battalion.

Q. (by the Court.) Was the position changed in consequence of Col. Gordon's application to Col. Howard?

A. It was not.

Q. (by Col. Gordon.) Did not Col. Gordon order him (the witness) to make the left of the battalion fall back, so as to form an oblique front to the enemy?

A. Yes, he did.

Q. Did not Col. Gordon, on making this manœuvre, order Lieut. Col. Thomas, with some other Officers, from under a tree, to join their companies?

A. Such an order might be given, but he did not hear it.

Q. (by the Court.) Did the Officers in general fall in with their companies at the time this manœuvre was making?

A. Col. Howard, Col. Thomas, and the Adjutant, were at the time at dinner, under a tree; if the Officers in general were with their companies, he did not see them.

Q. (by Col. Gordon.) Did he not see Col. Gordon always with his command from their taking this *second* position, till they again marched? or did he see him eating?

A. He saw him all this while with the battalion; he did not attend to whether he eat or not in the time.

Q. (by the Court.) Was Col. Thomas's company detached that day, when they went down to the orchard?

A. It was detached to the support of some troops in the orchard.

Q. Did he (the witness) go down with that company?

A. Yes.

Q. What distance was the orchard from the other five battalion companies?

A. About a quarter of a mile, or hardly so much.

Q. Does he know by whose order Lieut. Col. Thomas's company was detached?

A. He does not.

Q. Did he hear any conversation between Col. Gordon and Col. Thomas that day?

A. He did not.

Serjeant JOHN DAVIES, of the brigade of Guards, being duly sworn, was examined.

Q. (by Lieut. Col. Gordon.) At the time the Guards were in their second position, near the town of Springfield, did not he (the witness) hear some of the men apply to Col. Gordon, to change this position, and at the same time say, that they would be flanked by cannon on their left, if it was not changed immediately?

A. He did not.

Q. Does

Q. Does he know of Col. Gordon applying to Col. Howard to have the position changed?

A. He does.

Q. Did he not see the Officers, Lieut. Col. Thomas amongst the rest, drawing their companies from under a tree, in consequence of Col. Gordon's orders?

A. Some of the companies on the left changed their ground, and Lieut. Col. Thomas's, according to the best of his recollection, amongst the rest.

Q. Did he not see Col. Gordon always with his men giving close attention to them at this period?

A. At the time of changing their position he saw Col. Gordon there, and busy in moving a piece of cannon.

Q. (by the Court.) Did the enemy fire from those cannon at this time?

A. He believes that they did.

Q. Did he see Col. Gordon doing his duty at the time the enemy were firing cannon?

A. Yes, he did.

Q. (by Lieut. Col. Gordon.) At the time that the enemy's cannon were firing, did he see Lieut. Col. Thomas with his company?

A. As he remained with his own company, which was at a distance from Col. Thomas's, he

he could not see whether he was, or not, with his own company.

Q. Was it at the time that Col. Gordon was moving the piece of cannon, that he saw Col. Thomas under a tree?

A. It was before: by the time the cannon was moved, Lieut. Col. Thomas was gone from under the tree.

Q. Were the six battalion companies of the Guards engaged that day with musquetry?

A. The left of the first battalion were engaged for a short time.

Q. Was it before or after the battalion changed their position?

A. It was just before.

Q. (by Col. Gordon.) Did he at any time during this position, whilst the enemy were firing cannon, see Col. Gordon in the hollow place under the tree?

A. He did not.

Q. (by the Court.) Does he know who commanded the six battalion companies of the Guards when they took their first position upon the heights of Springfield?

A. He does not positively know, but he understood they were all under the orders of Lieut. Col. Howard.

Q. Who commanded the Guards in the absence

service of Col. Howard, when he was on another duty?

A. Col. Gordon, undoubtedly, as the senior Officer?

Q. Did he see Col. Gordon at the time the Guards took their first position on the heights of Springfield?

A. He did not.

Q. Did he see him returning from those heights?

A. The first time he saw Col. Gordon in returning from those heights, was when he was moving the Hessian cannon.

The Court adjourned till Monday Morning, ten o'clock.

Monday, Sept. 18; 1780.

THE Court being met, pursuant to adjournment,

MAJOR of Brigade COLLINS, already sworn, was again examined.

Q. (by Lieut. Col. Gordon.) Did not Lieut. Col. Gordon assemble the Officers of the first Battalion on the heights of Fordham, and desire the

the person who had disapproved of his conduct to stand forth and declare himself? In ignorance of this Lieut. Col. Gordon, on the 2d of August, came on the Parade, just as the men were about to be dismissed, and said to Lieut. Col. Thomas, who was there amongst other officers, that he had received his letter, and was come there in person to answer it, requesting at the same time Lieut. Col. Stewart's permission to make use of his wigwag for that purpose: at this place Lieut. Col. Gordon explained to Lieut. Col. Thomas the letter he had received, but declined shewing the copy of a letter written to General Matthew by him, which Lieut. Col. Thomas demanded in the one he had written that morning to Col. Gordon: after this some altercation ensued between Lieut. Col. Gordon and Lieut. Col. Thomas, but nothing, as he (the witness) recollects, particularly pointed on either side, which made him apprehensive it might not come to an explanation; for which reason, he again told Col. Gordon the expressions he had heard were absolutely necessary to be cleared up: his reply was, that he wished it, and then either did, or showed a desire to call upon the person: that Col. Stewart, who was one of the officers present, observed that he thought it was very right; but, as that was

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only

only a partial meeting of the brigade, he thought it would be more proper to defer it till a meeting of all the Officers of the Brigade was called; which was agreed upon, and he (the witness) assembled them accordingly at 12 o'clock the same day.

Q. (by the Court.) Was the letter that Col. Thomas wrote to Col. Gordon, and which Col. Gordon said he would answer in person, relative in any degree to the matter now before this court?

A. Intirely.

Q. (by Lieut. Col. Gordon.) Was Lieut. Col. Thomas present at the meeting of the Officers of the 1st battalion?

A. He was.

Q. Did he acknowledge himself to be the person who disapproved of Lieut. Col. Gordon's conduct this first meeting?

A. Not that he recollects: there was a good deal of altercation; but he does not remember that he avowed himself the author of it.

Q. Did not Lieut. Col. Gordon order him (the witness) to assemble all the officers of the brigade at 12 o'clock, and again desire the person who disapproved of his conduct to avow himself?

A. He

A. He was desired to assemble all the officers of the brigade; but whether it was by Col. Gordon he cannot recollect, but he thinks it most likely that the order proceeded from Lieut. Col. Gordon as commanding officer; but he looked upon it rather as an agreement amongst the officers than as an order; that at this meeting Lieut. Col. Gordon desired the witness to explain to the officers the reason of that meeting, and then desired the person who had aspersed his character, if he was present, to avow himself.

Q. Was Lieut. Col. Thomas at this second meeting?

A. He was.

Q. Did Lieut. Col. Thomas answer immediately to the request of Lieut. Col. Gordon?

A. He believes that Lieut. Col. Gordon repeated the question before Lieut. Col. Thomas answered.

Q. Did not he (the witness) complain of the interval of silence, expressing himself that his situation was very disagreeable, as he should be under the necessity of becoming an informer?

A. At that moment he made an appeal to his brother officers, and requested their opinion concerning his giving up the author's name,

but does not recollect his regretting his being obliged to be an informer; or any such circumstance.

Q. Did not Lieut. Col. Gordon say that he owed his (the witness's) situation to be disagreeable, but, to vindicate his (Lieut. Col. Gordon's) honour, he must oblige him to impeach the person?

A. He recollects Col. Gordon's telling him that he expected the author's name from him; and he believes at the time that Col. Gordon mentions.

Q. Did Col. Thomas then, or till after a little silence, declare that he was the person?

A. Then, or immediately after, he does not recollect any other conversation. Interesting, Lieut. Col. Thomas stood up and said, "Why need I be backward in accusing you, Col. Gordon, when I have already done it? Pardon me, Col. Gordon." On which Col. Gordon said, "Major Collins, you will put Col. Thomas in arrest." He (the witness) answered, that he should immediately obey his orders, but asked whether it would not be proper first to hear Col. Thomas's accusation; which Col. Gordon then demanded; and he (the witness) took it down in writing, and gave one copy of

to Lieut. Col. Gordon, and another to Lieut. Col. Thomas.

Q. Who was the person that told him that a dispute had happened between Col. Thomas and Col. Gordon?

A. Lieut. Col. Howard.

Q. (by the Court.) Whether it was on the 23d of June that he heard Col. Howard say, that a dispute had happened between Col. Gordon and Col. Thomas?

A. Yes.

Q. Was the altercation that ensued after Col. Gordon and Col. Thomas met at Lieut. Col. Stewart's whigham relative to the matter now before the Court?

A. It rather seemed to indicate that Col. Gordon suspected Col. Thomas to be the person that aspersed him.

Q. At the meeting of the officers of the brigade of Guards, can he recollect the identical words, or nearly those, of Col. Gordon's request?

A. He thinks, as nearly as he can recollect, that Lieut. Col. Gordon, then looking at Lieut. Col. Thomas, said, If the person who has accused me is present at this meeting, which I believe or suppose he is, I desire he will

will stand up, or forth, if not, I shall require him of you (meaning the witness).

Q. Did not Lieut. Col. Gordon at this meeting say, that he had been calumniated in his absence, and that he called upon the person who had done it to stand forth?

A. He don't recollect such an expression from Col. Gordon.

Q. Will the witness recollect and relate to the Court, as nearly as he can, the words made use of by Col. Thomas in his answer?

A. The words were, I accuse you, Sir, of not doing your duty before the enemy on the 23d of June.

Q. Did he hear Lieut. Col. Thomas say, upon this, or any other occasion, that he commanded the Guards on the 23d of June?

A. Never, as he recollects, but at the meeting of the Officers of the first battalion, when Col. Gordon, as part of the altercation between Col. Thomas and him, said, he recollected Col. Thomas having said to Col. Howard,—Col. Howard, I have had the honour to command the brigade of Guards to-day. On which Col. Thomas replied, “ Surely, Col. Gordon, you must suppose that I was jocose when I made use of that expression, as I never could possibly mean that I commanded
“ the

“ the brigade of Guards, when there were so
 “ many senior officers present, as I must have
 “ *reflected* upon all of them if *I* had meant it
 “ seriously.” Lieut. Col. Gordon answered,
 that he (Col. Gordon) said he had observed
 that assertion at the time, alluding, as he (the
 witness) understood it, to the 23d of June; but,
 if that is a feather in your cap, Sir, you might
 wear it. Lieut. Col. Thomas admitted this,
 but said, Col. Gordon, I do not mean to reflect
 on any of those Gentlemen I have mentioned,
 but, if they think I did, I beg *their* pardons;
 but I don’t beg *your’s*, as I meant the expres-
 sion to you, for reasons I had; and I despise
 you, Sir.

Q. When Col. Gordon was informed by
 Lieut. Col. Thomas at a meeting of the Offi-
 cers of the Brigade of Guards, that he was the
 person who had accused him, does he (the wit-
 ness) conceive this to have been the first time
 the circumstance of the accusation was *officially*
 announced to Col. Gordon?

A. This was the first time that Col. Thomas
 in his hearing *officially* accused Col. Gordon: he
 had however heard before, that Lieut. Col. Tho-
 mas had accused him.

Q. Can he of his own knowledge, or as far
 as comes within the reach of it, say, that Lieut.
 Col.

Col. Thomas ever secretly, or scandalously, as-
perfed the character of Lieut. Col. Gordon in a
manner unlike an Officer and a Gentleman?

A. Lieut. Col. Thomas never spoke to him
in confidence upon this subject, but always as
publicly as the nature of their situation would
admit of: he has often heard Col. Thomas ex-
press his astonishment that the matter had never
come to a hearing.

Q. (by Lieut. Col. Gordon.) When Lieut. Col.
Howard mentioned to him the dispute that had
happened between Col. Gordon and Col. Tho-
mas, did he relate to him the particulars of
that dispute?

A. As nearly as he (the witness) can recol-
lect, and as he asserted in a former part of his
examination, it was, that Col. Thomas de-
manded of Col. Gordon where he had been,
telling him, that he had frequent occasion to
send to him for orders, or words to that ef-
fect.

Q. At what time of the day did Lieut. Col.
Howard say that he had heard this conversa-
tion?

A. He did not demand of Lieut. Col.
Howard at what time of the day it hap-
pened.

Q. (by

Q. (by the Court.) Was what he has related to the Court, the whole of what Col. Howard told him respecting the conversation between Col. Gordon and Col. Thomas?

A. The whole, except that Lieut. Col. Thomas spoke in a hurry, and with warmth, and that he (Col. Howard) thought it must come to a further explanation when they arrived in camp.

Lieut. Col. ROBERT LOVELACE, of the Coldstream regiment of Foot-Guards, being duly sworn, was examined.

Q. (by Lieut. Col. Gordon.) On going to take possession of the heights beyond Springfield, on the 23d of June, did he not see Col. Gordon with his command?

A. He saw him with the second battalion.

Q. Did he (the witness) say to Col. Gordon at that time, that it was very hot; and did not Col. Gordon smilingly answer, that it was so in more respects than one?

A. He recollects saying it was hot; Lieut. Col. Gordon's answer he does not remember.

Q. Did he mean that the weather was hot; or that the enemy's fire was hot?

A. He meant to allude to the weather.

Q. (by Lieut. Col. Gordon.) Did he not think that the fire from the enemy was more trouble-

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some, at that period to the second battalion than that in front?

A. The distance from the front of the first battalion to the rear of the second was so great that he cannot pretend to judge.

Q. What sort of a fire from the enemy was it, whether upon the front or the flank?

A. It seemed to come from the front to the flank, and not more in one place than another.

Q. Does he not think, that at this time, when the Rebels were firing, if Col. Thomas had sent to Col. Gordon for orders, he might have been easily found with his command?

A. This the witness looks upon as a matter of opinion, and not a matter of fact.

Q. Was not Lieut. Col. Gordon in the column when he spoke to him (the witness)?

A. According to the best of his remembrance, Lieut. Col. Gordon was on the left flank of the *sixth* company.

Q. Whether, at the time Lieut. Col. Gordon was speaking to him (the witness), towards the rear of the column, he could not have been found, if he had been sent to for orders?

A. Undoubtedly, if they had been sent to the rear of the *second* battalion.

Q. Was

Q. Was there a hot fire upon the left of the second battalion at that period?

A. There was a scattering fire; but no more upon that part of the brigade than any other.

Q. (by Lieut. Col. Thomas). Did he (the witness) see Lieut. Col. Gordon at the time they ascended the heights beyond Springfield?

A. He saw Lieut. Col. Gordon very soon after the rear of the second had taken possession of those heights.

Q. Does he remember a severe cannonade in an orchard near Springfield, where the guards were formed?

A. He remembers three or four shots being fired, not more he believes.

Q. (by the Court). Was this before or after they ascended the Heights of Springfield?

A. After they had ascended them.

Lieut. Col. JOHN HOWARD, commanding the brigade of guards, being duly sworn, was examined.

Q. (by Lieut. Col. Gordon). Whilst Springfield was on fire, and whilst the brigade of guards were returning, did he not see Lieut. Col. Gordon on horseback, Lieut. Col. Thomas walking on his (Lieut. Col. Gordon's) right hand, and he (the witness) close on the right?

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A. They

A. They were all three nearly together; he does not particularly recollect their situation.

Q. Did he not hear Lieut. Col. Thomas say something of his having commanded the guards that day?

A. He thinks he recollects that he did.

Q. Did he not hear Lieut. Col. Gordon ask him what he meant by that insinuation? and did not Lieut. Col. Thomas answer, with a malignant smile, That I mean nothing but that I commanded the guards that day?

A. He does not recollect either Col. Gordon asking Col. Thomas such a question, or Col. Thomas answering it: such a conversation might have happened.

Q. Did not he hear Lieut. Col. Gordon say to Lieut. Col. Thomas, If it is a feather in your cap, so far as it relates to myself you may wear it?

A. He does not particularly recollect hearing it.

Q. In the *second* position, near the town of Springfield, did not Lieut. Col. Gordon come to him (the witness) and desire his permission to change the situation of his battalion, telling him that the enemy's cannon would enfilade them in their present position?

A. He recollects Col. Gordon coming to him

him for this purpose, and his answer was, that he thought there was no occasion.

Q. Was not his (the witness's) answer, that Gen. Matthew had posted the battalion, and that he could not change their position?

A. He cannot recollect his having given such an answer.

Q. Did he not desire him (the witness) to look upon the situation of his battalion?

A. Upon Col. Gordon coming up to him a second time, he gave an order for the battalion to change their position; he remembers saying, that he wished the Rebels would come down.

Q. As Lieut. Col. Thomas says that he disapproved of Lieut. Col. Gordon's conduct publicly, and particularly to him (Lieut. Col. Howard), does he (Lieut. Col. Howard) think what he said was of import to the disservice of His Majesty's arms, or detrimental to Lieut. Col. Gordon's character as an officer next in command to himself in the Corps of Guards?

A. He cannot answer such a question.

Q. (by the Court). Did the Corps of Officers of the Guards remonstrate or complain to him, as commanding officer, of the conduct of Lieut. Col. Gordon on the 23d of June?

A. He had no regular complaint made to him.

Q. Did

Q. Did Lieut. Col. Thomas, on the 23d of June, or since, acquaint him (Lieut. Col. Howard) that Lieut. Col. Gordon did not do his duty before the enemy that day?

A. No regular report was made of it, but a conversation passed in his hearing, which he (Col. Howard) could not clear up, but which he thought it behoved Col. Gordon to clear up.

Q. (by Col. Gordon). What was this conversation, and when did it happen?

A. It was on their march from Springfield to Elizabeth Town. Lieut. Col. Thomas said that his company was at the head of the first battalion, that he had sent Mr. Wilson the Adjutant and somebody else once or twice to Col. Gordon for orders how to act, and that he could not find him; this was the purport and most material part of the conversation; and Col. Gordon's answer to this was to this effect,—Sir, you may have been at the head of your company, but that is no reason that you should know the position of any other officer,—or words to that purport: that he (the witness) was sent off by Gen. Matthews to Lieut. Col. Simcoe, and did not know the facts alluded to in the conversation, and therefore did not join in it; but he remembers saying to Col. Thomas, that if he spoke so loud, Col. Gordon would hear

hear what he said, and Lieut. Col. Thomas answered that he meant he should.

Q. Was this conversation addressed to Col. Gordon?

A. It was heard by Col. Gordon, for he replied to part of it.

Q. Does he imagine that Col. Gordon heard Lieut. Col. Thomas say that he meant he should hear the conversation?

A. He is of that opinion.

The Court adjourned till ten o'clock the next morning.

Tuesday, Sept. 19th, 1780.

THE Court being met, pursuant to adjournment,

LIEUT. Col. Howard was again examined.

Q. by Lieut. Col. Gordon. As he thought that Lieut. Col. Gordon must have heard Lieut. Col. Thomas's intended slur upon his character, and as his (the witness's) memory cannot serve him for his third question, was he (Lieut. Col. Gordon) nearer to him (Col. Howard) and Col. Thomas upon the last part of

of the conversation, and induced to believe that Col. Gordon heard Col. Thomas's intended slur, when he could not hear his answer relative to Lieut. Col. Thomas's saying he had *commanded the Guards*?

A. When the principal and material part of the conversation between Lieut. Col. Gordon and Lieut. Col. Thomas happened, Lieut. Col. Thomas was upon his (Col. Howard's) right, and Lieut. Col. Gordon upon his left: he can give no further particulars of the conversation than he did in the course of his evidence yesterday.

Q. Was not he (the witness) Lieut. Col. Gordon, and Lieut. Col. Thomas, close together at the head of the first battalion, whilst this conversation happened?

A. They were close together a great part of the march; he cannot ascertain any particular time.

Q. After Col. Gordon got about a quarter of a mile out of the town of Springfield, had he any conversation with Lieut. Col. Thomas?

A. He does not particularly know; but the conversation was resumed by Lieut. Col. Thomas more than once.

Q. (by the Court). Does he mean the conversation between Lieut. Col. Gordon and Lieut.

Col.

Col. Thomas, for the conversation amongst all three of them?

A. Col. Gordon, if he recollects right, only answered to the part of the conversation from Lieut. Col. Thomas, which he mentioned yesterday. Lieut. Col. Gordon was so much with them, that he must, he thinks, have heard much more of it; but he does not recollect joining in any other part of it.

Q. Did Lieut. Col. Gordon ever, as one of three, renew the conversation he alludes to?

A. No.

Q. Did he (the witness) know of the first company being detached in an orchard, before he went to deliver a message, or orders, at a distance from the six Battalion Companies, previously to his command?

A. He certainly knew that he was; and an order came from Gen. Matthew for him to return.

Q. Did he (the witness) before he left the Six Companies, give Lieut. Col. Gordon any orders, or directions, as he had a right as his senior officer to do, previous to his going from that command?

A. He had not seen Col. Gordon for some time before. The witness here begged leave to mention the cause of his absence from the

Six battalion companies: when they moved forward on the road, a Guide came up to Gen. Matthew, who acquainted him, Lieut. Col. Simcoe would not obey any orders coming from him (the Guide) as not having a proper authority to convey them: the orders were for Lieut. Col. Simcoe to move forward to the road, and head the line of march: Gen. Matthew, in answer, said he must move forward, and looked round for his Aide-de-Camp, or Major of Brigade; that, not seeing either of them near, he (the witness) offered to deliver the order: the General expressed himself obliged to him, and gave him the same order to deliver to Col. Simcoe; that after the order was delivered, in riding back to make his report, and join the two battalions, he met Major of Brigade Collins, who was sent for the same purpose to Lieut. Col. Simcoe; but on his acquainting him that he had already delivered Gen. Matthew's order, they turned back, and soon after met the General, to whom he reported that Lieut. Col. Simcoe had moved with his corps; and on enquiring after the brigade, he found that the two battalions had marched forward; and the only means he had of joining them, was moving with Lieut. Col. Simcoe's corps; that on not finding the brigade in the road, Major Collins pointed them out to him, ascending

ing a height where he (the witness) joined them : that the time of his absence was about a quarter of an hour or twenty minutes ; but the time may be ascertained by Mr. Wilson, the Adjutant, who heard the order delivered by Capt. Maitland, who saw him ride off with the Guide, and by Major of Brigade Collins ; but he has every reason to believe, that no other Officer of the Brigade knew, at the time, of his being sent off with the order.

Q. (by Lieut. Col. Gordon.) Did he (the witness) know, that the six Battalion Companies, during his absence, and then under the command of Lieut. Col. Gordon, were under a heavy fire of the Enemy ?

A. They were certainly under a fire of the Enemy at that time.

Q. (by the Court.) Has he ever, subsequent to the 23d of June, heard Lieut. Col. Thomas speak of the conduct of Lieut. Col. Gordon on that day ?

A. He has.

Q. Did he, in speaking of Lieut. Col. Gordon's conduct, secretly, or did he publicly declare his opinion relative thereto ?

A. As he (the witness) does not exactly recollect the periods of time, he cannot say whether (what) other persons were present ; but he always understood that he spoke of it *publicly*.

Q. Will

Q. Will he (the witness) relate to the Court, as nearly as he can recollect, the expressions he heard Lieut. Col. Thomas (during the absence of Lieut. Col. Gordon) make use of, in speaking of the conduct of Lieut. Col. Gordon the 23d of June?

A. What expressions he made use of, during Col. Gordon's absence, he (the witness) does not recollect, as he was absent himself a great part of that time.

Lieut. Col. GORDON having closed his prosecution, the Court adjourned till next morning, at ten o'clock.

Wednesday, Sept. 20, 1780.

THE Court being met, pursuant to adjournment,

LIEUT. Col. GORDON requested that the Court would insert, in their proceedings, a letter he had received from Serjeant Curtis, of the first Battalion of Foot-Guards, dated the 16th of Sept. 1780; which request the Court thought proper not to comply with, in the course of

of the prosecution; but agreed that, at a future period, it might be produced, if found necessary.

Lieut. Col. Gordon having concluded his prosecution, Lieut. Col. Thomas opened his defence with the following address to the Court, viz,

“ *Mr. President, and Gentlemen of the Court,*

“ **T**O so respectable a Court-Martial as this, composed of Officers, Men of Honour, and Gentlemen, it must be unnecessary to describe my feelings, either on the present prosecution against me, under all the circumstances with which it has appeared to be connected, or on the manner in which it has been attempted to be supported by Lieut. Col. Gordon; Gentlemen of delicate honour and sensibility being by far more able to conceive, than I am to express, what my sensations must have been, in my situation, when Lieut. Col. Gordon, not content with calling me to account by this trial, on a charge of a very heavy nature, for an injury alledged to be done to *him*, descended to superadd to it *invektives* and *aspersions*.

“ I am a prisoner but I will spare myself the pain of making reflection on conduct that speaks
so

so loudly for itself: I will therefore only say, that, if he meant it as an insult to me, it was weakly and ill done; and that it was weaker and worse, if he expected by these means to raise unfavourable impressions in this respectable Court against me, with vain hopes that he could thereby induce them to censure the Man, such as he has been pleased to paint me, instead of acquitting or condemning me on the evidence alone applicable to the charge against me.

“ I flatter myself, Mr. President, that the Court will pardon these reflections—I conceived them proper to be made out of respect to the Court, as I am sensible that, during the course of the evidence offered by Col. Gordon, I have often been struck with astonishment, not unmixed with indignation; and possibly some look or expression forced from me on those occasions may need an apology.

“ I stand here as a criminal, though I am persuaded I have not been guilty of any crime; nor is it a mitigation of the severity of my situation, that I have been put under an arrest by Lieut. Col. Gordon in *his own cause*.

“ I know of no grounds for this arrest, or this trial, but what I shall now candidly avow, as openly as I have always done.

“ On

“On the 23d of June, near Springfield, having no private pique against Lieut. Col. Gordon, I felt what I hope was an honest and soldier-like indignation, at an apparent neglect of duty in Lieut. Col. Gordon.—I trust and I hope I shall always feel the same, for the honour of my Corps, and the good of the service, on similar occasions. In the first warmth, under the strong impressions of that indignation, I publicly, openly, and to Col. Gordon's own face, accused him, on the spot, of Neglect of Duty, and at other times of that day mentioned it again in *his* hearing.—The notoriety of this, at the time, was such, (as appears by the testimony of Brigade-Major Collins and Col. Howard) that it was expected an explanation must have ensued on our return to camp.—If this is *secretly* and *scandalously* aspersing Col. Gordon's character, I have done it.

“If after having made this open and public Charge against him in my Report to Col. Howard, for so I meant it, and spoke of it and his conduct to my Brother Officers, expressing my wonder that the Corps did not take it up, as Col. Gordon did not—if this is private scandal, unbecoming an Officer and a Gentleman, I have done it.

“I have

"I have always openly avowed my accusation; I believe it to be well founded; I avow it now, and I am persuaded that I can prove it, was this the proper time: but I conceive that at present I am only called upon to acquit myself of the charge against me, and that I am not to criminate him until he stands upon his trial on my accusation.

"However the fact of Col. Gordon's behaviour may have been on the 23d of June, my heart was upright and honest in the accusation; and, had he been acquitted of the charge, I should have had only to regret that I had been misled by appearances: and was I, after his acquittal, on trial before this Court, as I am now, (he untried) I should be under no apprehension of being found guilty of a crime; because the Court would distinguish between the depravity of a criminal design, and an involuntary misapprehension founded on strong appearances.

"When I consider, therefore, the nature of Col. Gordon's charge against me, and how totally unsupported it stands on the evidence, I am persuaded I shall meet with an honourable acquittal.

"The charge against me is of a black complexion, and I submit it to the Court whether it ought not to have been supported by evidence

dence strong in proportion to the odiousness of the charge.—It implies a secret, assassin-like stabbing in the dark at Lieut. Col. Gordon's reputation, and not an honest and open attack, such as mine has been.—It implies, in my judgement, the want of every human virtue, for they must be incompatible with that heart that is base enough to attempt to undermine a reputation; and, could I think it possible for this Court, by their sentence, to fix this character on me, I should beseech them in mercy to deprive me of life by the same sentence.

“The specific secret slander, if I understand the charge right, consists in saying, That I had commanded the Guards on the 23d of June—The words were spoken by me on that day—The manner in which they were spoken has been so clearly explained by Col. Howard and Brigade-Major Collins, as to make it unnecessary for me to trouble the Court with my observations concerning them. Thus much appears from the evidence produced by Col. Gordon, that these words did not pass in *secret*, and in the *dark*, but openly in the presence of Lieut. Col. Gordon himself; and that he heard them, and replied to them.—None but such a genius as Col. Gordon's could have hoped to have converted this open transaction into a dark

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and secret stabbing of a reputation. This, I apprehend, is all the charge I am now to answer; and I think I need not make any observations to shew that there is a miserable defect of evidence to criminate me on this charge.

"If, however, the Court should consider the charge exhibited against me, as including not only this specific charge of secretly speaking the above words, but a general charge also of I know not what secret scandal, I need only recall to the memory of the Court, the evidence that has been given, and observe that nothing of this sort has appeared — that Lieut. Col. Gordon has been so unfortunate (if it can be called unfortunate, not to be able to prove things that never existed) as to produce no witness to accuse me, but such as have proved that my conduct has not been secret, and like that of an assassin, but honestly, openly and publicly avowed by me at all times, and on all occasions; and I feel that I can, with well-founded confidence, rely on the wisdom of the Court, and assure myself of their opinion, that this heavy charge is totally unsupported. — I apprehend, that after what I have had the honour of observing to the Court, my defence will not make it necessary for me to contrast the evidence of Col. Gordon against itself, or against his witnesses,

tiest: Solicitous at present only to acquit my-
 self, and not now to criminate him, I wish
 to spare his friends the mortification of hearing
 his testimony set in the light it deserves. Nor
 need I enter into, at present, evidence on the
 subject of his character, or any other matter
 foreign to the present enquiry; I do not wish
 to follow his example. — The charge, therefore,
 against me, being for secret slander (though fur-
 ther witnesses of the open and public manner
 of my accusing him may not seem necessary) I
 will beg of the Court to permit me to call a
 few witnesses, in additional proof of the man-
 ner in which I expressed my censure of Col. Gor-
 don's conduct; from whose testimony I hope it
 will more fully appear, that Col. Gordon was
 fully apprised of it as early as the 23d day of
 June; and I shall leave him to reconcile to his
 own conscience (if he can) these facts with his
 declaration *on oath*, that the first time he knew
 his conduct was censured, was on the evening
 of the 31st of July, with this one observation,
 that I admire his uncommon address, in con-
 verting his *inattention* for so long a time, to a
 matter so consequential to him, into a circum-
 stance tending to prove that I *secretly* aspersed
 him.

I did hear Col. Gordon from the

of Guards, which he commanded that

Lieut.

Lieut. Col. Thomas then called upon the following witnesses; viz. of whom the first was
 Lieut. Col. Hon. JAMES STEWART, of the first Regiment of Foot-Guards, being duly sworn, was examined.

Q. (by Lieut. Col. Thomas.) Does he recollect hearing a conversation between Lieut. Col. Gordon and Lieut. Col. Thomas, on the heights of Springfield, on the 23d of June? and to what did that conversation allude?
 A. He recollects a conversation between them that day: he (the witness) was standing on the heights of Springfield, with Lieut. Col. Thomas, after the two battalions of Guards were formed there, when they saw Lieut. Col. Gordon at some distance, coming up the hill: as soon as Lieut. Col. Gordon came up, Lieut. Col. Thomas attacked him, in very rough terms, for his absence from the battalion; to which Lieut. Col. Gordon answered, by saying that he had been waiting in the rear for orders. Some further conversation happened; but, as he (the witness) found it a disagreeable one, he did not stay to hear the remainder of it, but went to the other flank of the battalion.

Q. Did Lieut. Col. Gordon form the first battalion of Guards, which he commanded that day, on the heights of Springfield?

A. He

A. He did not—he was not there till some time after the battalion was formed.

Q. Does he recollect to have seen Col. Gordon, or to have received orders from him, from the time the first battalion halted near the orchard, where Col. Barton's corps was engaged, till it was formed on the heights of Springfield?

A. He did not see Col. Gordon during that time; every order that was given to the battalion, he (the witness) himself gave.

Q. Does he recollect a severe cannonade from the Rebels, upon the first battalion of Guards, when they were formed in an orchard near the town of Springfield?

A. He recollects *three random shots*, but no severe cannonade. Lieut. Col. Gordon seemed very anxious to have the battalion moved; but he (the witness) saw no occasion for it: the first shot fell short of his (the witness's) company; the other two went over their heads. Lieut. Col. Gordon went up to Col. Howard, and pressed so much for moving the battalion, that Col. Howard complied with it.

A. Does he remember at that time to have seen, or to have heard of three columns of Rebels, with four pieces of cannon, advancing towards them?

A. He heard Col. Gordon call to Col. Howard, that the enemy were advancing, with three pieces

pieces of cannon; he (the witness) upon ascending the hill, saw them coming on with one piece of cannon, which they were carrying round upon their flank.

Q. Does he (the witness) recollect having made any observation, relative to the extraordinary conduct of Lieut. Col. Gordon, in the orchard near Springfield? and what was that observation?

A. He recollects saying, in a jocular manner, to Lieut. Col. Thomas, when he saw Lieut. Col. Gordon pressing the moving of the battalion, As you have attacked Col. Gordon so roughly this morning, I suppose he is determined to shew you that he can be very alert.

Q. Does he recollect to have heard Lieut. Col. Thomas speak to Lieut. Col. Gordon, on the subject of his former conduct at Springfield in general, previous to the meeting of the officers of the Brigade of Guards, in his (the witness's) whiguham, on the heights of Fordham, on the 2d of August? and whether Lieut. Col. Thomas ever shewed any fear of accusing Lieut. Col. Gordon?

A. There was a good deal of conversation about Col. Gordon's conduct on the heights of Springfield, and on other matters. Lieut. Col. Thomas did not shew any fear of speaking on

this

this subject; but after a long altercation, Major of Brigade Collins said, that he *had* declared, and was now ready to produce an accuser of Lieut. Col. Gordon: the witness begged that it might not be done there, but that a meeting of the officers of the whole brigade, he requested, might be convened at twelve o'clock that day, in order that they might have time to think on the matter.

Q. (by Lieut. Col. Gordon.) Who commands the six battalion companies of the Guards, in the absence of Lieut. Col. Howard?

A. Of course the next senior Officer present.

Q. Who is the next senior Officer to Lieut. Col. Howard?

A. Lieut. Col. Gordon is the next in seniority in the brigade.

Q. Did he see Lieut. Col. Gordon, upon his taking possession of the heights of Springfield, sometimes with one part of the brigade, and sometimes with another?

A. In answer to the first part of the question, he (the Witness) has already said, that Lieut. Col. Gordon did *not* take possession of the heights of Springfield. — Upon there being a good deal of firing on the front, as well as the flanks, Lieut. Col. Thomas, who commanded the front

front company of the first battalion, came up to him (the witness) who was then with his own company in the rear of the battalion, and asked him for orders, as neither Gen. Matthew, Lieut. Col. Howard, nor Lieut. Col. Gordon, were then present;—that he (the witness) was rather displeased with Lieut. Col. Thomas for having halted, and finding that the town of Springfield was carried by our troops, he ordered Lieut. Col. Thomas to his company; that, in going into the front of the battalion, he thought it necessary to take possession of the heights beyond the town; he therefore, after having passed some mill-houses, ordered Lieut. Col. Thomas, with the first company, to push forward for that purpose.

Q. Did not the three companies of the second battalion closely follow the rear of the first?

A. Yes, and Lieut. Col. Schutz formed them when they came to the top of the hill.

Q. Did not Lieut. Col. Gordon order the men to lie on their arms, under the bushes, the weather being extremely hot, and the men very much fatigued with a pressed march?

A. After they had been formed some time, orders were given for the men to lie on their arms; but by whom the orders were given, whether

ther Lieut. Col. Howard, or Lieut. Col. Gordon, he cannot say.

Q. (by the Court.) Did he see Col. Gordon with the second battalion, when they formed on the heights of Springfield; or did he come up afterwards?

A. He thinks that Col. Gordon came up after the second battalion.

Q. How soon afterwards did Lieut. Col. Gordon come up?

A. It must have been very soon afterwards.

Q. Did he know that Lieut. Col. Gordon was Commanding Officer of the six battalion companies, at the time they took possession of the heights of Springfield?

A. He did not see Col. Gordon present, and therefore could not look upon him as Commanding Officer.

Q. Did he know, at any part of that day, that Col. Howard was sent by M. Gen. Matthew for orders, or upon any other duty?

A. He did not positively know it, till Lieut. Col. Thomas reported it to him: he saw M. Gen. Matthew speak to Lieut. Col. Howard; but he did not see Lieut. Col. Howard go off, as his (the witness's) attention was then drawn towards the flanking parties, who had taken a wrong direction.

I

Q. Whom

Q. Whom did he consider as the Commanding Officer of the six battalion companies at the time of their moving up to take possession of the heights of Springfield?

A. He (the witness) took upon himself to make this manœuvre with the first battalion, and Lieut. Col. Schutz followed with the second, in order to prevent the enemy gaining them, and was uneasy after having done it, upon the idea of having gone out of the line of march; he therefore sent the Adjutant to Maj. Gen. Matthew, to inform him what he had done. Had he seen Lieut. Col. Schutz, who commanded the second battalion, and was older than himself, he should have asked for his orders; but he thought that there was no time to be lost.

Q. How long was Lieut. Col. Howard absent from his command, when sent with orders by Maj. Gen. Matthew?

A. He cannot precisely say, as he did not see when Lieut. Col. Howard went off; but he thinks about twenty minutes, or not exceeding half an hour.

Q. What were the expressions that Lieut. Col. Thomas made use of to Lieut. Col. Gordon, when he ascended the heights, which he (the witness) terms *rough*?

A. He

A. He cannot exactly recollect all that was said by Lieut. Col. Thomas, on this occasion; as Col. Thomas was in a great passion, and when in that situation speaks thick; but one of the expressions was, Where have you been skulking? I have sent every where for orders, but could not find you.

Q. At the time that Lieut. Col. Thomas made use of this expression, did Col. Gordon make him any answer, or appear to have heard and understood what Lieut. Col. Thomas said?

A. Lieut. Col. Gordon may not have heard the whole of what Lieut. Col. Thomas said, though he certainly heard the purport of it; as he answered, That he had been waiting in the rear for orders.

Q. Has he (the witness) ever heard Lieut. Col. Thomas, in the absence of Lieut. Col. Gordon, between the 23d of June and the 30th of July, speak of the conduct of Lieut. Col. Gordon on the 23d of June?

A. He never had any conversation with Lieut. Col. Thomas, upon this subject, directly or indirectly, during that time.

The Court adjourned till the next Morning, at ten o'clock.

I 2 Thursday,

Thursday, Sept. 21, 1780.

THE Court being met, pursuant to adjournment,

CAPT. AUGUSTUS MAITLAND, of the first regiment of Foot-Guards, being duly sworn, was examined.

Q. (by Lieut. Col. Thomas.) Does he (the witness) recollect to have seen Lieut. Col. Gordon with the first battalion of Guards when they took possession of the heights of Springfield on the 23d of June?

A. He does not recollect seeing him at that time.

Q. Whether those heights were taken possession of by Lieut. Col. Gordon, or Lieut. Col. Stewart?

A. By Lieut. Col. Stewart—Lieut. Col. Gordon not being with the first battalion, which he (the witness) belonged to, Lieut. Col. Stewart took the command of it.

Q. Does he remember to have seen Col. Gordon when the first battalion of Guards halted near the orchard, where Lieut. Col. Barton's battalion was engaged?

A. He

A. He does not recollect seeing him at that time.

Q. Does he remember to have seen Lieut. Col. Gordon with any part of the first battalion, after that time, till the battalion was formed on the heights of Springfield by Lieut. Col. Stewart?

A. He does not.

Q. Does he remember to have seen Lieut. Col. Howard leave the first battalion, when he went on a message from Gen. Matthew to Lieut. Col. Simcoe?

A. Yes, he was near Gen. Matthew at the time, and heard him tell Col. Howard to go to Col. Simcoe.

Q. Did he see Col. Gordon at that time?

A. He did not.

Q. Does he recollect any conversation between Lieut. Col. Thomas and Lieut. Col. Gordon, on the heights of Springfield, and what was that conversation?

A. Upon Col. Gordon coming upon the heights, Lieut. Col. Thomas spoke to him in very harsh words; but what these words were he does not recollect: he however remembers, that Col. Gordon answered, that he had been in the rear, waiting for orders.

Q. Does

Q. Does he recollect any altercation to have passed between Lieut. Col. Thomas and Lieut. Col. Gordon, on the morning of the 2d of August, in Lieut. Col. Stewart's whiguham, on the heights of Fordham, previous to a meeting of the Officers of the brigade of Guards?

A. He very well remembers an altercation to have happened at this time.

Q. Did he observe any fear in Lieut. Col. Thomas to avow himself the accuser of Lieut. Col. Gordon?

A. He thought, rather the contrary, both by his looks and words.

Q. (by Lieut. Col. Gordon.) In the absence of Col. Howard, who commands the brigade of Guards?

A. He should suppose, the next superior Officer present.

Q. Who is the next senior Officer?

A. Lieut. Col. Gordon.

Q. Did he know, at the period that they were going to take possession of the heights of Springfield, that Lieut. Col. Howard was absent from the brigade?

A. He did.

Q. Does he know of Lieut. Col. Gordon having gone towards the rear of the second battalion to receive Gen. Matthew's orders?

A. He

A. He at that time neither saw nor heard any thing of Col. Gordon.

Q. Did not the whole column march in divisions, following each other?

A. The first battalion followed one another; whether they were in platoons or divisions, he does not know.

Q. Did he know that the second battalion followed the first?

A. He should think they did, as the whole brigade arrived at the same time on the heights.

Q. After the brigade was formed on the heights, did he not hear Lieut. Col. Gordon give orders to the men of the whole brigade to lie down upon their arms, under the bushes, the men being fatigued by a rapid march, and they accordingly lay down in compliance of these orders?

A. He does not recollect who gave that order.

Q. Was Lieut. Col. Howard upon these heights at the time the men lay down upon their arms?

A. He does not recollect to have seen Col. Howard upon these heights at all.

Q. Who commanded, then, upon these heights?

A. Lieut. Col. Gordon, of course.

Q. When

Q. When did he see Lieut. Col. Howard return to resume his command of the brigade of Guards?

A. He returned soon after they had got upon these heights, that is to say, he came to the bottom of the heights, and ordered the brigade to leave them.

Q. Was not the brigade in motion, in consequence of orders, and going towards the town, before Col. Howard resumed the command?

A. They had not left the hill, nor does he recollect whether they were in motion.

Q. Had the firing from the enemy, upon the brigade of Guards, ceased before Col. Howard resumed the command?

A. He cannot recollect.

Q. Was there any firing of musquetry at all, upon the brigade of Guards, in going from the hill towards the second position?

A. He does not remember that there was.

Q. (by the Court.) As the second battalion followed the first, in taking possession of the heights of Springfield, might not Lieut. Col. Gordon have been with the second battalion, without his (the witness) knowing it?

A. He might.

Q. Did

Q. Did he ever hear Lieut. Col. Thomas, during the absence of Col. Gordon, between the 23d of June and 29th of July, speak of Lieut. Col. Gordon's conduct on the 23d of June?

A. Yes.

Q. Did Lieut. Col. Thomas do it publicly, or secretly?

A. Publicly.

Q. Did he ever hear Lieut. Col. Thomas say that he commanded the Guards on the 23d of June?

A. He never heard him say so.

Q. (by Lieut. Col. Gordon.) Does he (the witness) know of any person or persons being sent to Lieut. Col. Gordon, on the 23d of June, for orders?

A. He remembers that Lieut. Col. Thomas sent a Serjeant from the orchard, and that he returned, and said that he could not find Lieut. Col. Gordon.

Q. What was the Serjeant's name?

A. His name was Curtis.

Q. Were there any other messages sent for orders by any other person?

A. Yes, he remembers Mr. Wilson, the Adjutant, being sent in search of Col. Gordon, to know what was to be done.

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Q. (by

Q. (by the Court.) Was Gen. Matthew with the first battalion of Guards, when he sent Lieut. Col. Howard to Lieut. Col. Simcoe?

A. He was near the second company of that battalion with which he (the witness) was.

Q. Does he know of Lieut. Col. Thomas having made complaint to Lieut. Col. Howard, as Commanding Officer, between the 23d of June and 29th of July, of Lieut. Col. Gordon not having done his duty on the heights of Springfield?

A. He does not.

Q. Who sent Adjutant Wilson and Serjeant Curtis for orders to Lieut. Col. Gordon?

A. Lieut. Col. Thomas sent Serjeant Curtis; but by whom Adjutant Wilson was sent, he does not know.

Q. How did he know that Lieut. Col. Thomas sent Serjeant Curtis to Lieut. Col. Gordon for orders?

A. Serjeant Curtis belonged to the same company with him, (the witness) and he heard Lieut. Col. Thomas give him the order to go to Lieut. Col. Gordon.

Q. Did he hear Serjeant Curtis report to Lieut. Col. Thomas, on his return, his not being able to find Lieut. Col. Gordon?

A. He did.

Q. Was

Q. Was the sending for orders by Adjutant Wilson and Serjeant Curtis, before or after taking possession of the heights of Springfield?

A. Before.

Q. Does he know by whose orders the first company was detached into the orchard?

A. He does not.

Q. Was not the second company, which he (the witness) commanded, ordered to support the first? and who ordered it?

A. Col. Howard gave him the order.

Q. Was this previous to his being detached by Gen. Matthew?

A. It was.

Q. At what time was it that Serjeant Curtis was sent to Lieut. Col. Gordon for orders?

A. At the time that they were in the orchard.

Q. Does he know whether Lieut. Col. Thomas knew of Col. Howard being sent off by Gen. Matthew before the second company went into the orchard?

A. The second company went into the orchard before Col. Howard was sent off by Gen. Matthew.

Q. What does he suppose was Lieut. Col. Thomas's reason for sending to Lieut. Col. Gordon for orders?

K 2.

A. Because

A. Because Lieut. Col. Gordon commanded the first battalion, to which Lieut. Col. Thomas belonged.

Q. Who was the Officer of the first battalion, next in seniority to Col. Gordon?

A. Lieut. Col. Stewart.

Q. Does he (the witness) know of Lieut. Col. Thomas having sent to Lieut. Col. Stewart for orders, upon his messenger not being able to find Lieut. Col. Gordon?

A. He does not.

Adjutant ROBERT WILSON, of the first battalion of Foot-Guards, being duly sworn, was examined.

Q. (by Lieut. Col. Thomas.) Did he (the witness) see Lieut. Col. Gordon, all the day of the 23d of June, with the first battalion?

A. No.

Q. Did Lieut. Col. Gordon take possession of the heights of Springfield?

A. Not with the first battalion.

Q. Did Lieut. Col. Gordon give any orders to the witness, at the time they took possession of these heights, to look for Lieut. Col. Howard?

A. No; he received an order from Lieut. Col. Stewart, to look for Maj. Gen. Matthew, or Lieut. Col. Howard.

Q. Does

Q. Does he recollect to have heard a second cannonade from the Rebels on the first battalion, when they were formed in the orchard near Springfield?

A. There were two or three cannon-shot fired from the enemy, when the arms were piled, and the men lying down in the orchard; but none of those shot came near them.

Q. Does he (the witness) know whether Lieut. Col. Gordon knew of Lieut. Col. Howard being absent from the brigade, before he returned?

A. It is impossible for him (the witness) to know whether he did or not.

Q. Did he see Lieut. Col. Howard leave the brigade? and from what part of it did he go?

A. He saw Lieut. Col. Howard leave the brigade; and he went from the left flank of the first battalion.

Q. Was the brigade then drawn up?

A. No; they were marching in platoons.

Q. From the flank of what company of the first battalion did Lieut. Col. Howard set out?

A. It was not far from the front of the battalion; it might be about the flank of the second company.

Q. Did he at this time, that Lieut. Col. Howard was sent off by Maj. Gen. Matthew,

see

see Col. Gordon with any part of the first battalion?

A. He did not.

Q. Does he recollect to have seen Lieut. Col. Gordon, when they halted near the orchard where Lieut. Col. Barton's corps was engaged?

A. He did not see Lieut. Col. Gordon at that time.

Q. What length of time elapsed between this period and that of Lieut. Col. Howard leaving the brigade?

A. It might be an hour, more or less; he cannot speak precisely, as he did not look at a watch.

Q. Did not he (the witness) go to Lieut. Col. Gordon for orders, and report afterwards to Lieut. Col. Thomas, that he could not find him?

A. By order of Lieut. Col. Thomas, he went through the first battalion, to look for Lieut. Col. Gordon; but he was not then with the battalion.

Q. Does he (the witness) know of Lieut. Col. Thomas having sent any other person, at any other period of time, to look for Lieut. Col. Gordon? and what was the report?

A. Not in his (the witness's) hearing.

Q. At

Q. At what time, previous to their taking possession of the heights of Springfield, did he (the witness) see Lieut. Col. Gordon?

A. He does not recollect having seen him for an hour and a half before; but he does not mean to say that he was not with the battalion during that time.

Q. Does he recollect to have seen Lieut. Col. Gordon, on the return from Springfield, in any other part of the brigade, except the front of the first battalion?

A. He (the witness) was in the rear of the first battalion the whole time, and did not see Lieut. Col. Gordon; whether he was in front, or not, he cannot say.

Q. Was the fire of the enemy, during the march from Springfield to Elizabeth-Town, on the front or rear of the column?

A. There was some firing from the enemy upon their flank and rear; that on the flank was but trifling, but there was a good deal on the rear.

Q. Was there any firing in front?

A. None that he knows of.

Q. (*by Lieut. Col. Gordon.*) In the absence of Lieut. Col. Howard, who commands the brigade of Guards?

A. The

A. The Officer next in seniority, he should suppose.

Q. Who was the Officer next in seniority to Col. Howard on the 23d of June?

A. If Lieut. Col. Gordon had been present, he would have been; but, in the absence of Lieut. Cols. Howard and Gordon, it fell to Lieut. Col. Schurz.

Q. Who gave the order for the six battalion companies of the brigade of Guards to lie upon their arms, under the bushes, on the heights beyond Springfield?

A. He does not know that the men lay upon their arms there, being sent on a message by Lieut. Col. Stewart to find General Matthew, or Lieut. Col. Howard.

Q. Did he leave the heights to go to report, and for orders, before the whole brigade was formed upon them?

A. The whole brigade was formed some minutes before he was sent for orders.

Q. Had the firing from the enemy ceased at this period?

A. It had.

Q. When did he meet Lieut. Col. Howard after he left those heights?

A. He met him at the bottom of the hill, coming

coming from Lieut. Col. Simcoe, to whom he had been with orders.

Q. As nearly as he can recollect, how long time elapsed, from Lieut. Col. Howard leaving the brigade to go to Lieut. Col. Simcoe, till he saw him again?

A. He thinks, not more than twenty minutes.

Q. In the *second* position of the brigade along the rails, did he not see Lieut. Col. Gordon go to Lieut. Col. Howard, then refreshing himself in a kind of hollow under a tree, and say, that, with his permission, it was necessary to change the position of the first battalion? And did not Lieut. Col. Howard answer, that they were posted by Major-General Matthew, and must remain; and Lieut. Col. Gordon reply, that the Commanding Officer on the spot, he thought, might alter the position if he found it necessary; the first battalion being in a situation to be enfiladed or flanked by cannon coming down on their left: and further desire Col. Howard to look at the situation? And did not Col. Gordon, upon Col. Howard approving of it, order the Officers to their companies, and make the alteration, by throwing the left to the town and the right to the rails obliquely?

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A. He

A. He does not recollect any of this conversation; but he remembers the first and second companies being ordered to stand to their arms; and they afterwards changed their position.

Q. Was not the firing in the rear of the column at a great distance from the rear of the brigade of Guards, and upon the corps that covered their rear?

A. There was no corps in the rear of the Guards but the Queen's Rangers, that he knows of: it therefore could not be a great way, as this corps were closely following the Guards.

Q. Were the flank companies of the Guards close to the six battalion companies?

A. Yes, they were.

Q. How far does he suppose the rear company of the Guards was from the nearest division of the Queen's Rangers?

A. When the column was first formed, and marched from Springfield, there was a wide distance between them; but, upon the witness reporting this to Lieut. Col. Howard, he halted the brigade of Guards, till the witness informed him that the Queen's Rangers were close up.

Q. Did

Q. Did he hear of any officer or men of the six battalion companies being wounded till they came near the Rebel Governor Livingston's house?

A. He heard of nobody but Lieut. Col. Gordon.

Q. Were there any men of the brigade of Guards, besides Lieut. Col. Gordon, wounded on the 23d of June, except when they passed beyond the town in taking possession of the heights?

A. No.

Q. (by the Court.) Did he see Lieut. Col. Gordon, between the time at which the two companies were detached, and that of taking possession of the heights of Springfield?

A. According to the best of his knowledge, he did not.

Q. Did he see Lieut. Col. Gordon on the heights of Springfield?

A. According to the best of his recollection, he met Col. Gordon going up the hill, as he (the witness) was going down to look for Col. Howard by order of Lieut. Col. Stewart.

Q. When Lieut. Col. Thomas sent him to look for Lieut. Col. Gordon for orders, did he search for him through the whole brigade?

A. He did not; he looked for him in the first battalion only.

Q. At the time that Lieut. Col. Howard was sent off by Gen. Matthew, was any body sent to Lieut. Col. Gordon, to inform him that he commanded the brigade of Guards?

A. Not that he knows of.

Q. When Lieut. Col. Thomas sent him to Lieut. Col. Gordon for orders, did he (the witness) know that Lieut. Col. Howard was away?

A. He did.

Q. Did he ever hear Lieut. Col. Thomas, between the 23d of June and 30th of July, speak of the conduct of Lieut. Col. Gordon on the 23d of June?

A. Yes, several times.

Q. What were the terms in which he spoke of it, and to what purport?

A. He has often heard Lieut. Col. Thomas say, in a very *public* manner, on the Parade, that Lieut. Col. Gordon did not behave like a Soldier and a Man before the Enemy.

Q. Did he ever hear Lieut. Col. Thomas say that he commanded the Guards on the 23d of June?

A. He never did.

Q. (by Lieut. Col. Gordon.) Did not Lieut. Col.

Col. Thomas do duty under Lieut. Col. Gordon from the time he joined his command on the heights of Fordham, till the 2d of August, when Lieut. Col. Gordon put him in arrest?

A. Lieut. Col. Thomas did duty on the heights of Fordham, after Lieut. Col. Gordon returned thither: he cannot speak as to the length of time.

Q. Does he know of Lieut. Col. Thomas having applied for, and obtained leave from Lieut. Col. Gordon, to go to New-York, during this period?

A. He does not know whether he did or not.

The Court adjourned till next morning, at ten o'clock.

Friday, Sept. 22, 1780.

THE Court being met, pursuant to adjournment,

SERJEANT Major THOMAS JARMAN, of the first battalion of the Brigade of Guards, already sworn, was again examined.

Q. (b)

Q. (by Lieut. Col. Thomas.) Does he recollect to have seen Lieut. Col. Gordon near the orchard, where Col. Barton's corps was engaged, on the 23d of June?

A. He does not.

Q. Whether Lieut. Col. Gordon did not at this time command the first battalion?

A. Yes, he (the witness) always understood it as such.

Q. Does he recollect Lieut. Col. Thomas sending to Lieut. Col. Gordon for orders, from the orchard?

A. Yes.

Q. Does he recollect whom Lieut. Col. Thomas sent?

A. He sent him (the witness).

Q. Did he (the witness) see Lieut. Col. Gordon?

A. He did not.

Q. Does he recollect to have seen Lieut. Col. Gordon, when the first battalion took possession of the heights of Springfield?

A. He did not see him.

Q. Does he recollect Lieut. Col. Thomas sending him (the witness) for orders, previous to their ascending those heights? and to whom did he send him?

A. Lieut. Col. Thomas sent him for orders

at

at that time to the Commanding Officer of the first battalion: this was the expression made use of by Col. Thomas.

Q. What report did he (the witness) make to Lieut. Col. Thomas?

A. That he could not see the Commanding Officer.

Q. Did he see Col. Gordon at any period of time, from that at which they went into the orchard, till after they had ascended the heights of Springfield?

A. He did not see him till some time after the battalion was formed on the heights: the heights, he means, are those where they took another position, after leaving the orchard.

Q. Did Lieut. Col. Gordon, or Lieut. Col. Stewart, form the first battalion on those heights?

A. He saw Lieut. Col. Stewart form the battalion.

Q. Did he see Lieut. Col. Gordon ascending the heights?

A. He does not recollect that he did.

Q. How long, after the battalion was formed on the hill, does he recollect to have seen Col. Gordon sitting on a stone under it?

A. A very little time afterwards; it might be about five or six minutes.

Q. Does

Q. Does he remember to have seen Lieut. Col. Gordon cross a field on the left of the road, through which the column had marched towards the heights of Springfield?

A. He does not.

Q. Does he remember the time when Col. Howard joined the brigade?

A. He does not.

Q. What distance of time elapsed, between their forming in the orchard, and his (the witness's) afterwards seeing Lieut. Col. Gordon?

A. It might be about three quarters of an hour; or near an hour; he does not think it was quite an hour.

Q. (by Lieut. Col. Gordon.) If Lieut. Col. Howard is absent, by going on a message, or by a wound received, who commands the brigade of Guards?

A. Lieut. Col. Gordon.

Q. Whilst he (the witness) was in the orchard, was it not with one company detached?

A. With two companies, the first and second.

Q. Was not the first company detached singly?

A. Yes; but it was afterwards joined by the second.

Q. Did not he (the witness) know when Lieut.

Lieut. Col. Howard went off with the message, that the command devolved on Lieut. Col. Gordon, and that he received orders from Gen. Matthew?

A. He did not know that Col. Howard had gone on any message.

Q. Did he see Lieut. Col. Gordon on the heights, giving orders, after they were taken possession of?

A. He did not.

Q. Were not the whole brigade ordered to lie upon their arms, under the bushes, in consequence of the fatigue of a rapid march?

A. The men lay down upon their arms; but he (the witness) did not hear such an order given, though there may have been.

Q. Did he see Lieut. Col. Howard at any period of time whilst the six battalion companies were on these heights?

A. He did not.

Q. Who had proper authority then to give orders to the whole?

A. Lieut. Col. Gordon, he supposes, or the Officer commanding, if Lieut. Col. Gordon was not there.

Q. Where did he see Lieut. Col. Howard resume his command, after they had taken possession of the heights?

A. The place he next saw Col. Howard at,

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was

was where they took a third position. The first position, he looks upon, was that in the orchard, the second on the heights of Springfield, and the third where they halted near the town of Springfield.

Q. Did not Major Gen. Matthew give his orders, and make his disposition in this last position, near the town of Springfield?

A. He cannot answer that question, as he does not know what orders Gen. Matthew gave.

Q. Did he see Gen. Matthew there?

A. He does not recollect seeing him there.

Q. At the time that he saw Lieut. Col. Gordon sitting down under the hill, were not the six battalion companies lying on their arms?

A. Some of the men were sitting, and others standing.

Q. Was not the place where Lieut. Col. Gordon sat towards the Enemy?

A. He cannot tell whether the King's troops had taken possession of the town of Springfield at the time; if the Enemy were in possession of it, the place Col. Gordon was sitting at must have been towards them, as it was on the Springfield side of the hill; but it was not towards the Enemy that the brigade were fronting.

Q. Was there any firing on the six battalion companies from the Enemy, at the time they were formed upon the heights?

A. A

A. A few musquet shots; about a dozen or so.

Q. Is he sure that the shots he heard were fired from the Enemy?

A. He has reason to think so, as he had nearly been killed by one of them.

Q. Were not the Officers and Men all standing or lying promiscuously upon the top and side of the hill?

A. Yes.

Q. (by the Court). Is there a Serjeant Major to each battalion?

A. Yes.

Q. Did he (the witness) when he was sent for orders, seek for Col. Gordon in the first battalion only, or in both battalions?

A. In the first battalion only.

Q. When Lieut. Col. Thomas sent him to apply to the Commanding Officer of the Battalion for orders, whom did he look upon as Commanding Officer?

A. Lieut. Col. Gordon.

Q. Where did he look for that Commanding Officer?

A. In the three companies of the first battalion: he did not know that Col. Howard was absent, and therefore he looked upon Col. Gordon as commanding that battalion.

Q. How long was it between his being sent the second time to Lieut. Col. Gordon for orders, and his seeing him sitting on the side of the hill?

A. He does not think that it exceeded twenty minutes.

Q. Was the place that he saw Col. Gordon sitting at, on the flank, front, or rear of the brigade?

A. In the rear of the brigade.

Q. (by Lieut. Col. Gordon.) How far was Lieut. Col. Gordon from the nearest of the men?

A. It might be about forty or fifty yards; he cannot think it exceeded that.

Q. Was it not very hot and sultry at that period?

A. Yes, it was.

Q. Was there not a very heavy fire at this time to the left of the town?

A. He does not recollect to have heard much firing at this time.

Q. (by Lieut. Col. Thomas.) Whether or not Lieut. Col. Gordon had not paid particular attention to him (the witness) since the 21 of August?

A. Col. Gordon as commanding that battalion.

A. Col. Gordon has been very good to him, but never once mentioned *this* affair to him.

Q. Had Col. Gordon been particularly attentive to him previous to that day?

A. Col. Gordon had taken the command of the first battalion but a few days before this, and therefore could not be very attentive to him.

Q. Has not Col. Gordon since that period made him (the witness) presents?

A. He has.

Q. (by the Court.) Did Lieut. Col. Gordon make those presents upon any particular conditions, or tell him that he expected any particular return for them?

A. No, he never did.

Q. Was Springfield in the front, flank, or rear of the six battalion companies, when they were formed on the heights?

A. In the rear.

Adjutant JAMES COLQUHOUN, of the second battalion of Foot-Guards, being duly sworn, was examined.

Q. (by Lieut. Col. Thomas.) Does he remember the brigade of Guards to have halted near

an orchard, where Col. Barton's corps was engaged?

A. He does not.

Q. Does he remember to have seen Col. Gordon with the second battalion on the 23d of June?

A. Yes.

Q. At what particular place?

A. On the left of the sixth company, on the road leading to the heights of Springfield.

Q. Did Lieut. Col. Gordon give any orders to the second battalion that day?

A. He (the witness) did not hear of any.

Q. Does he recollect to have seen Lieut. Col. Gordon take possession of the heights of Springfield?

A. He did not see Lieut. Col. Gordon there.

Q. Does he recollect to have seen Col. Gordon during the fire of the Rebels in any part of the road?

A. There was firing on the right flank, where he saw Lieut. Col. Gordon.

Q. In what part of the battalion was Lieut. Col. Gordon at that time?

A. On the left flank of the sixth company.

Q. Was Lieut. Col. Gordon on horseback, or on foot?

A. He

A. He was on foot.

Q. Was he standing still, or walking?

A. He was standing still at the time he saw him.

Q. In what particular position?

A. He was standing in a loose manner, with his hat off, wiping his face.

Q. Did the second battalion pass him at that time?

A. Yes.

Q. Does he (the witness) recollect to have seen Col. Gordon from that time till they ascended the heights of Springfield?

A. He did not see him.

Q. How long was the *second* battalion formed upon the heights before he saw Lieut. Col. Gordon?

A. He does not recollect seeing Col. Gordon there.

Q. At the time of going along the road, when the right flank was fired upon, did he know that Col. Gordon commanded the six companies?

A. He did not.

Q. Did he know that Col. Howard was sent on a message, and had quitted his command?

A. He did not.

Q. Did

Q. Did not the six battalion companies march by divisions in column, following successively in a direct line?

A. Yes.

Q. Was not the fire from the Enemy a flank fire, on the right, from the hanging wood, under the fire signal?

A. It was upon the right flank of the second battalion.

Q. Was not one division, as it passed, as much exposed to the fire as another?

A. He cannot say that; as the farther they advanced, the heavier the fire became.

Q. Did not the whole fire, as they went along, come upon the right flank, till they ascended the heights?

A. As they came nearer the heights, he thinks the fire was more upon the front.

Q. Did not the six battalion companies ascend the hill in divisions, following close after one another?

A. Yes.

Q. After the heights were taken possession of, did he not hear an order given, for the men to lie down under the bushes, to protect themselves from the heat?

A. He does not recollect hearing an order for that purpose.

Q. Did

Q. Did not the greatest part of the men lie on their arms, under the bushes?

A. A number of men lay down; he cannot say the greatest part.

Q. Did he see Lieut. Col. Howard, at any period, on the heights of Springfield?

A. He did.

Q. Was it before they moved from the heights to take another position near the rails?

A. Yes.

Q. Was he on the right, left, or centre of the six companies?

A. According to the best of his recollection, he was nearest to the centre.

Q. How long had the heights been taken possession of, before he saw Col. Howard there?

A. Five minutes, or more.

Q. Did Col. Howard give orders for the six companies to descend the heights, to take the second position?

A. He does not know who gave the order for that purpose.

Q. Did he know of Adjutant Wilson being sent to look for Col. Howard, or Gen. Matthew?

A. He did not.

Q. Did he see Col. Howard descend with the six battalion companies?

N

A. He

A. He did.

Q. Was Col. Howard on foot, or horseback?

A. On foot.

Q. (*by the Court.*) Were any of the men of the Guards killed, or wounded, in ascending the heights?

A. Yes, there were two men wounded.

Q. Was this before or after they passed Col. Gordon?

A. He does not recollect.

Q. (*by Col. Gordon.*) Were not the flankers upon the right, towards the rear, driven in upon the battalion, by the heavy fire of the enemy, while in the road by the rails?

A. He did not see them driven in.

Q. Did he see Col. Gordon speaking to Col. Lovelace, in the second battalion, at the time of this heavy fire upon the right?

A. He saw Col. Gordon, and heard him make an answer to some Gentleman, but did not know who it was.

Q. Was this not in an interval between two divisions?

A. He does not recollect its happening in an interval between two divisions.

Q. Where then did it happen?

A. Near the rear of the second battalion.

Q. Was not the weather very hot at this time?

A. Yes.

A. Yes.

Q. Can he recollect the answer he heard Col. Gordon make?

A. He thinks Col. Gordon said that it was hot weather.

Q. Were they not very near the heights at that period?

A. No, they were at a great distance from them.

Q. Did not the divisions follow in very close order, and with very little interval?

A. He does not think they were very close.

Q. Was there room for the divisions to form?

A. Yes.

Q. (by the Court.) With what part of the second battalion was the witness, when he perceived Col. Gordon wiping his face?

A. On the left flank of the sixth company.

Q. Did he (the witness) continue in the same situation, till they took possession of the heights?

A. He did not.

Lieut. AUGUSTUS O'HARA, of the Royal Artillery, being duly sworn, was examined.

Q. (by Lieut. Col. Thomas.) Does he recollect to have seen Col. Gordon on the 23d of June?

A. He remembers to have seen him three times.

Q. Does he recollect the brigade of Guards having halted near an orchard, where Col. Barton's corps was engaged?

A. Yes, he does.

Q. Does he recollect having seen Col. Gordon in the march from thence to the heights of Springfield?

A. He remembers to have seen him twice.

Q. Was he on horseback, or on foot?

A. He was on foot, at both times.

Q. Where did he see him the first time?

A. He saw him upon the left of the road, where his (the witness's) guns were in action.

Q. Was Col. Gordon in the road, or out of the road?

A. He was out of the road, with his guns.

Q. Was he marching, or did he stand still?

A. At the time he speaks of, the whole line had halted, whilst the guns were firing.

Q. Did he see him afterwards?

A. Yes, once.

Q. In what place?

A. On the left of a road, behind a hedge, as the first battalion was moving on.

Q. Was Col. Gordon at that time standing still?

A. No, he was moving on.

Q. In what particular position?

A. He

A. He appeared to him to be moving, almost on his hands and feet.

Q. Was there any fire from the Rebels at that particular time?

A. A very heavy fire.

Q. Does he recollect to have seen Col. Gordon, from that time, till after they were formed on the heights of Springfield?

A. He does not.

Q. (*by the Court*). Did he see any man killed or wounded by the heavy fire he speaks of?

A. He (the witness) had one man wounded, and several shot went into his gun carriages.

Q. (*by Col. Gordon*). At the time that Col. Gordon was, as he has said, standing by his (the witness's) guns, when the column was halted, did not Col. Gordon point out a knot of Rebels, and say, that by pointing his guns thither, his fire would be very efficacious, and kill a great many of them?

A. Col. Gordon gave him a great many directions; but he did not pay any attention to them, as he thought himself the best judge of the firing of his own guns.

Q. Did not he (the witness), upon Col. Gordon making an apology for interfering, say that he had very little ammunition left?

A. He did.

Q. Was

Q. Was there not a little stone wall, with a single rail at top, between the road and where his guns were?

A. There was.

Q. Was it possible to cross and re-cross this wall, without using hands and feet, in fire or out of fire?

A. He (the witness) could have vaulted over it with the assistance of a stick.

Q. Had Col. Gordon a stick to help him over?

A. He does not recollect.

[The witness begged leave to observe to the Court, that it was not at this stone wall that he saw Col. Gordon, as he said before, nearly on his hands and feet; it was behind a hedge.]

Q. After receiving Gen. Matthew's orders in the bottom, were not his (the witness's) guns in confusion? and did he not halt?

A. He was obliged to draw one of his guns some hundred yards by men, which occasioned his limbers with the ammunition to be left behind; he therefore halted the guns till the ammunition could be brought up.

Q. Were not his guns attached to the brigade of Guards?

A. Yes.

Q. Who commanded the brigade of Guards in the absence of Col. Howard?

A. He

A. He does not know.

Q. Did not the six companies of the brigade of Guards, whilst in this sort of confusion on account of the limbers, go on briskly, and leave the guns in the road?

A. He does not believe that the whole of the six companies passed whilst the guns were halted.

Q. Did he see Col. Gordon, after he passed his guns, till they ascended the heights?

A. He never saw him pass at all by the guns.

Q. Whose orders did he think himself obliged to obey that day?

A. Lieut. Col. Howard's.

The Court adjourned till next morning at eleven o'clock.

Saturday, Sept. 23, 1780.

THE Court being met, pursuant to adjournment,

LIEUT. O'Hara, already sworn, was again examined.

Q. (*by the Court.*) Who was near him (the witness) at the time that he saw Col. Gordon almost on his hands and feet?

A. He

A. He saw Lieut. Col. Thomas with about seventy men of the Guards, and his (the witness's) own detachment, and, he thinks, Adjutant Willson.

Q. Where was the brigade of Guards at that time?

A. They were very much fatigued, and coming on in the rear.

Q. When, and to whom, did he first mention the circumstance of seeing Col. Gordon almost on his hands and feet?

A. He don't recollect.

Q. Did he ever mention it, from the day on which it happened, till yesterday, when he was called upon at this Court Martial?

A. He believes that he has.

Q. Can he say, from his own knowledge, whether any of those who were near him saw Colonel Gordon in that posture?

A. No, he cannot.

Q. Did he hear any conversation, on the 23d of June, between Lieut. Col. Gordon and Lieut. Col. Thomas?

A. He did not.

Q. Has he ever, since the 23d of June, heard Col. Thomas speak of Lieut. Col. Gordon's conduct on that day?

A. Yes.

Q. Was

Q. Was it previous to the 27th of July?

A. No; what he heard Lieut. Col. Thomas say, was subsequent to Col. Gordon's return to the brigade on the 27th of July.

Q. Did he ever hear Col. Thomas say, that he commanded the Guards on the 23d of June, when they ascended the heights of Springfield?

A. He never did.

Q. Does he know how long Col. Gordon remained in the posture he has mentioned, of being almost on his hands and feet?

A. He saw him about half a minute.

Q. Does he mean that he saw him half a minute in that posture, or that Col. Gordon remained only half a minute thus situated?

A. He cannot tell how long he remained thus, as it was by the greatest chance he saw him at all.

Q. Did he observe Col. Gordon change this posture?

A. He did not; as he was too much taken up with his own duty, to attend to him above half a minute.

Q. At what distance was the brigade of Guards from the hedge, at the time he mentions to have seen Col. Gordon in the situation he has described?

A. He has already observed, that he only saw Lieut. Col. Thomas, with about seventy men,

at the time the hedge was about five yards from them.

Q. Does he know whether Lieut. Col. Thomas was acquainted with Lieut. Col. Gordon's situation that day?

A. According to the best of his knowledge, he thinks that he was not; as Col. Thomas was too much engaged in his own duty, to attend to him.

Q. Was the hedge which he describes, and near which he saw Col. Gordon, near the heights they were then pushing for?

A. Yes.

Q. Can he ascertain the distance?

A. About three hundred yards.

Q. (by Lieut. Col. Gordon.) Was Lieut. Col. Thomas at the head of the column, at the period that he saw Col. Gordon stooping under a hedge?

A. He was.

Q. How near does he suppose Col. Gordon was to Col. Thomas?

A. About seventy yards, according to the best of his recollection.

Q. Were not the companies of the second battalion, the rear of the brigade, two or three hundred yards behind?

A. He cannot tell,

Q. Was

Q. Was not the brigade marching in divisions, successively following one another?

A. He cannot tell.

Q. How near were his (the witness's) guns to the brigade?

A. His guns were in the front of Col. Thomas's party, which was at the head of the brigade.

Q. Did he, in the course of looking about, see the rear of the column?

A. No.

Q. Did he know that there was a company of the first battalion detached into that orchard, where he saw Col. Gordon, within seventy yards of Lieut. Col. Thomas?

A. He has not said that it was an orchard; he did not know that there was a company detached there at all.

Q. Was it before or after his (the witness's) guns were in disorder, by the limbers being broke, that he saw Col. Gordon in the situation he has described?

A. His limbers were never broke, nor were his guns in disorder the whole day.

Q. Was it before or after the guns halted, in going up a hill, that he saw Col. Gordon in the situation he has mentioned, behind a hedge?

A. He does not recollect.

Q. (by the Court.) Does he mean to say that Col. Gordon was about seventy yards in the front or rear of Col. Thomas?

A. He means to say, that Col. Thomas was in the road, in front; and Col. Gordon out of the road, about seventy yards in the rear.

Q. (by Col. Gordon.) Was the hedge under which he saw Col. Gordon, on the right or left of the column?

A. On the left.

Q. (by the Court.) Were there any other troops between the Enemy and the Guards, when they (the Guards) took possession of the heights of Springfield?

A. He does not know.

Q. Was Col. Gordon, at the time he was in this posture behind a hedge, as he describes, sheltered from the Enemy's fire?

A. Yes, in some measure; he cannot say that he was absolutely so altogether.

Q. (by Col. Gordon.) Was the hedge a thick or thin one?

A. It appeared to him to be a thick one.

Q. Was it a high hedge?

A. He did not observe the height of it.

Q. Was it the height of a man?

A. He cannot tell.

Q. Was

Q. Was Col. Gordon moving, in the situation he has described, in the same direction that the troops were going?

A. Yes.

Q. Was the field in which Col. Gordon was thus situated, the same field that his guns were drawn up in?

A. No.

Q. Were his guns then in the road going forward?

A. He has already observed that they were moving on at the head of the column.

Q. Was the hedge close to the road?

A. Yes.

Q. Did he see Col. Howard near that period of time?

A. No.

Lieut. Col. THOMAS then closed his defence with the following address to the Court:

"Mr. President, and Gentlemen of the Court,

THE evidence on this my trial for *secret* slander, and defamation of Col. Gordon's character, in a manner unbecoming an Officer and a Gentleman, being now closed on both sides, in which I have been induced to

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go into further particulars than I at first thought proper; I beg to be permitted, under favour of the Court, (of whose candour I am most truly sensible) to make a few observations on the proceedings of Lieut. Col. Gordon against me.

“ I was put under an arrest by Lieut. Col. Gordon himself, in *his own* cause, for publicly charging him with his Neglect of Duty on the 23d of June.—This arrest took place near six weeks after I had in the most public manner, to his *own face*, made the *same charge*, from an honest indignation at his conduct, and from a sense of duty alone.

“ I was subjected to his power—Whether he executed it properly in this instance, the Proceedings of this Court-Martial will shew.—Suffice it to say, that, in consequence of this exertion of his power, I am this day (being his public accuser) in the strange situation (he untied) of answering to a criminal charge against me for the accusation.

“ Upon this arrest, instead of exhibiting a charge against me; such as the public nature of my conduct might have been thought to justify, he has accused me of *secret* slander.—The reason why he made use of this word *secret*, an essential part of this charge, is but too manifest.—

fest.—Had he openly and honestly stated the fact, he must have been sensible his charge would have contained nothing criminal; and he has too much *cunning* to defeat, by *so fair* a proceeding, the small chance of extricating himself from the danger of a trial, by an attempt to procure a condemnation of me. Besides the use of this word *secret*, he would have been sadly put to it to have given any tolerable colour, even for a moment, to his unaccountable silence, so long continued, on a subject of so much *importance* to him.

“ The charge he has been pleased to exhibit against me, is of the blackest dye, and implies, as I have before observed, the want of every human virtue.—In addition to the mortification of being obliged to answer to *such* a charge, from *such* a man, I have found myself, as a prisoner, subjected to the humiliation (without having it in my power to make the proper reply) of hearing myself loaded with every opprobrious epithet, with a torrent of abuse and aspersion, not hastily dropped from excess of passion, but *coolly delivered* from *written papers*. Lieut. Col. Gordon doubtless had his motives for this—’tis happy, however, that these are not proofs of *any thing* but the disposition of him who utters them.

“ As

“As to the evidence in support of the charge of *secret shander*, I need not trouble the Court with any observation upon that head.—The great attention paid by the Court to every part of the evidence, through this long enquiry, can leave no doubt of their having received every impression which I could wish to convey; I shall, therefore, only add, that I cheerfully repose myself on the justice and candour of the Court, in full persuasion that I shall be with honour acquitted.”

Lieut. Col. Gordon observed to the Court, that having closed his prosecution, with the reservation of replying to any new matter that might arise in the defence of the Prisoner, and it appearing, in the course of evidence on the part of Lieut. Col. Thomas, that Serjeant Curtis had been sent in search of him (Col. Gordon) for orders, Col. Gordon therefore requested that Serjeant Curtis might be called upon to speak to this point; which being consented to by the Court,

Serjeant JOHN CURTIS, of the first regiment of Foot-Guards, was accordingly sworn and examined.

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Q. (*by Lieut. Col. Gordon.*) Did Lieut. Col. Thomas send him (the witness) at any time of the day, of the 23d of June last, for orders to Lieut. Col. Gordon?

A. No.

Q. Was he desired to go and look for Col. Gordon any where?

A. No.

Q. Was he sent by Lieut. Col. (then Capt.) Thomas, on that day, (particularly during the fire) for orders, to any other Officer?

A. Yes; to Lieut. Col. Howard.

Q. Did he make any report to Col. Thomas, after having gone on this message?

A. Yes; he reported, that Col. Howard had sent Maj. Collins to Gen. Matthew for his orders.

Q. Was there any other Officer present, when he made that report to Col. Thomas?

A. Capt. Maitland was.

Q. (*by the Court.*) Did he not meet Serjeant-Major Jarman, when he (the Serjeant-Major) was going to look for Col. Gordon, by desire of Col. Thomas?

A. No; he does not recollect any thing of the fort.

Q. Had he any conversation with the Serjeant-Major relative to Col. Gordon?

A. No; he does not recollect seeing him.

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Q. Did

Q. Did he see Col. Howard at the time Col. Thomas sent him to him for orders?

A. Yes, he did.

Q. Was Col. Howard in the orchard?

A. He was not at that time.

Q. Where did he find Col. Howard?

A. At the head, he thinks, of the third company, the first and second company being in the orchard.

Q. Was Col. Gordon in the orchard, at the time he (the witness) went to Col. Howard?

A. Not to his knowledge.

Lieut. Col. GORDON then concluded his prosecution with the following Address.

“ **H**AVING now finished all that I mean to adduce in support of my charge against Col. Thomas, I hope that, upon considering thereof, the matter will appear to you in the same light it does to me, which is, that proof is brought that Col. Thomas did in secret, as regards myself, scandalously asperse my character, &c. I know the word *secret* in this charge has by some been considered as a word ill chosen; but it is unnecessary to mention to you, Gentlemen, that any thing, whereof a person is ignorant, is, in so far as it regards himself, a secret; and that, in disagreeable

greeable matters, such as this is, mankind in general do not incline to intermeddle; so that for most part it happens, that the person that is most interested is the person who last hears of the calumny! In the present case, Col. Thomas has not pretended to deny, that he had in my absence insinuated, that I had been guilty of one of the greatest crimes that an Officer can be guilty of, and one of the meanest that a Gentleman can commit. And I think it sufficiently appears, that this was done in a manner which gave reason to believe, that intelligence of the aspersions would not be soon conveyed to me; for I was five days returned to my command, he doing duty with me, after an absence of near five weeks, before I heard one syllable of it, as will appear from the evidence of Major of Brigade Collins. If such proceedings, so far as they regard me, are not secret aspersions, I do not know by what name to call them. There is one thing, however, that cannot admit of a doubt, which is, that, in so far as respects Col. Thomas's line of duty, his accusations were private; and that there is nothing in evidence to shew that he himself meant to make them public; for, if he had, the method of doing so officially was easy. Col. Howard has told you, that no such thing was

done; and the most favourable construction that can therefore be put on this part of Col. Thomas's conduct is, that, if he wished the matter to be made officially public, he, I presume, had rather that it came from another person than himself. And this, according to my apprehension, not being proper, was the reason that, when I was first informed that aspersions detrimental to my character were handed about, I immediately requested a meeting of the Officers of the first battalion of Guards, in order that my accuser should make a public avowal of his charge; and, when we were assembled in Lieut. Col. Stewart's wig-ham, I requested, that, if the Officer who had aspersed me was present, he would have candour enough to declare himself, in order to prevent me from calling a meeting of the whole Officers of the Brigade—A silence ensued—It was then proposed by Col. Stewart, and assented to by myself, that the whole Officers of the Brigade should meet at twelve o'clock.—This I desired the Major of Brigade to notify. The Officers accordingly met; when Col. Thomas, after some pause, and in consequence of my threatening to impeach him, avowed himself to be my accuser; his accusation being, that I had not done my duty, the 23d of June, before the Enemy.

Lieut.

“ Lieut. Col. Thomas, having thus acknowledged himself to be the author of the scandalous aspersions that, for some weeks preceding, had it seems, been circulated here; I thought myself justified, as his Commanding Officer, to put him in arrest, and, with the approbation of the Commander in Chief, to bring him to this trial: and as, in the course thereof, this Honourable Court have had the goodness to indulge both parties with the liberty of examining witnesses, respecting the original accusation brought against me by Col. Thomas, which, though not at present before the Court, is so connected with my charge, that it is scarce possible to separate them; I must beg your further indulgence, in hearing a few remarks that have occurred to me upon that evidence. The facts uniformly asserted by me, were, that from a little after four o'clock in the morning of the 23d of June, till the men returned to camp, I was not one moment absent from my command, even to take a little refreshment, excepting for the short time that Dr. Rush took to examine a hurt I received from a ball fired by the Enemy. Now, Gentlemen, I do, with great submission, apprehend that, from the evidence now before you, there is nothing that will confute this assertion; but that, on the contrary,

trary, it appears, that through the whole of this day, I was doing my duty in a Soldier and Officer-like manner; and that neither the strange story told by Mr. O'Hara, or my not being at all times upon the very spot that Col. Thomas* thought proper to allot, will be considered as a deviation therefrom. — Having mentioned *Mr. O'Hara*, I shall conclude with what I have to say upon his evidence, with this single observation, that, had this Honourable Court an opportunity of seeing the ground where the particulars mentioned by him happened, they could easily perceive the propriety of my crossing, what he is pleased to call a *bedge*, which, by the bye, is only a low loose stone wall, with a single rail at top, the whole not more than three feet and a half high; for by being a few paces within the inclosure, to the left, a Commanding Officer saw the whole line of march of the brigade, which in any other position he was prevented from doing, by a curve in the road. — And you would also perceive how difficult a matter it was for Mr. O'Hara, advanced at the head of the brigade, to see me at the distance of seventy yards in the rear; a circumstance that also agrees very ill with what Col. Lovelace tells you passed betwixt him and me; for it was at this period we met, and had
the

the conversation related by him to the Court. It is altogether unnecessary to observe here, how soon a person taking a position in the flank of a brigade, that are marching with a quick pace past him, comes to be near to the rear; nor can I conceive that a person would, for safety, or for any other motive than duty, take a position which rendered him a conspicuous object to an annoying enemy, the stooping in the posture mentioned, during the half minute that I was observed by Mr. O'Hara!

“ What I have further to mention to you, Gentlemen, is a matter wherein every Commanding Officer of a corps, or even of an army, is interested. — Lieut. Col. Thomas, then a subaltern in the first battalion of Guards, under my command, and who, in the period that must be alluded to by him in his accusation, behoved to know, that I commanded the whole brigade of Guards; for he would otherwise have sent to Col. Howard, not to me, for orders. He has taken upon him to judge what was proper for me, as Commanding Officer, to do; he has taken upon himself to say, that I should not go either to the right or left of my command; and seems even to have marked out the particular spot, that, as Commanding Officer, I should have fixed myself in; and, because I was not just there, he accuses me of Breach of
Duty

Duty to *my King* and Country, and a total Breach of Honour to *myself* and Family.—What Col. Thomas has further taken upon him to say, respecting his having commanded the brigade of Guards, on the 23d of June, I could not possibly consider as a reflection singly intended for me; for it equally reflected upon all his senior Officers, in the brigade of Guards, of which there were many: and I therefore, when it was mentioned to me, treated it with that ridicule and contempt it deserved; telling him, that, if it was a feather in his cap, he might wear it, so far as regarded myself: I say, Gentlemen, if inferior and subaltern Officers have a right thus to accuse their Superiors in Command, upon pretences so *frivolous*, and so unjust, I tremble for all Officers whose rank lays them open to such censure, as may bring them to the disagreeable predicament in which I now find myself—a *predicament* that to me is entirely new, and which, in the course of this trial, may have occasioned my committing inaccuracies that may have given unnecessary trouble; which, and any other impropriety I may have committed, I hope you will have the goodness to forgive, on account of my *particular feelings*.

The Court adjourned till Monday morning, at eleven o'clock.

Monday,

Monday, Sept. 25, 1780.

THE Court being met, pursuant to adjournment,

Serjeant-Major JARMAN, already sworn, was again examined.

Q. Did he meet Serjeant Curtis as he (the witness) was going from Col. Thomas to Col. Gordon for orders?

A. As he was returning with an answer to Col. Thomas, he met Serjeant Curtis, in the ploughed field leading to the orchard: he asked him where he was going; and he answered, that he was going from Lieut. Col. (then Captain) Thomas to Col. Gordon for orders: the witness replied, that he had been on the same errand; and then returned to the column without carrying an answer to Col. Thomas, thinking that Serjeant Curtis's carrying one was sufficient.

Capt. COLLINS, Major of Brigade, already sworn, was again examined.

Q

Q. Did

Q. Did not Serjeant Curtis mention to him (the witness) his having been sent by Col. Thomas to Col. Howard for orders?

A. He does not recollect any such thing: a Serjeant came to him for orders; but he does not remember whether it was Serjeant Curtis.

Q. Did he (the witness), in consequence of the message of this Serjeant, give orders to Lieut. Col. Thomas?

A. Not in consequence of the message he received by the Serjeant.

Lieut. Col. THOMAS, by permission of the Court, laid before them the following observations, by way of rejoinder, viz.

"I FEEL myself particularly called upon to take notice of the first attempt of Col. Gordon to introduce in evidence a letter of Serjeant Curtis; *the manner* in which this attempt was made, and *the purpose* it was intended to serve. This subject was introduced out of all time, with a torrent of invective and abuse, and was intended to fix on me the imputation of what I should have blushed to have
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conceived in *secret*, no less than an attempt to suborn a witness. This horrid imputation must have been shocking to my friends; and I find it has afforded occasion to others to speak of it with that indignation which my friends *themselves* must have felt, had it been founded in truth.

As to myself, though conscious of my innocence, I severely felt the force of this machination against me; and I may add, that I looked forward with horror to its possible effect; for at *that* time I did not know where to find evidence to disprove the horrid calumny.—I have had a *providential* deliverance, in a manner the most unexpected, for which I must ever retain the most lively gratitude—it was afforded in the evidence of Capt. Maitland, who, after I had gone through the questions I intended to propose to him, as I had no idea of his recollecting any thing relative to this question, in being cross-examined, gave the clearest testimony to the truth of the very identical fact which Serjeant Curtis, in his letter, accuses me of attempting to suborn him *falsely* to swear: and, though the testimony of Captain Maitland could not possibly be thought to require a corroboration, yet I have had the good fortune to be further shielded from this shocking attack, by the evidence given by the truly worthy Serjeant-Major Jarman.

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One would have thought, that after this palpable detection, Lieut. Col. Gordon would have wished it should have passed over in silence, and that he could not possibly have thought, even for his own sake, (if he had no compunction or compassion for his *Friend* Serjeant Curtis) of persisting, or of bringing any thing relative to it again before the eye of man; much less that he could have been induced to offer to this respectable Court this *miserable* man as a witness deserving the least degree of credit; yet, as if it was his fate to precipitate himself beyond a possibility of recovery, we have seen him produced before the Court, and have heard him propose questions to this *wretched being*, with the view of proving, by *such* a witness, that Capt. Maitland, whose honour and character are far above my praise, and the very respectable Serjeant-Major, had sworn *incautiously*, to say no worse; as if nothing, though ever so respectable, was to be spared, so that he might come at me. The Court must have felt the result of it in all its force: it will be therefore unnecessary for me at present to make any further observations on this subject, other than that whatever odium of subornation is on this occasion imputable, it cannot fall upon me; but Col. Gordon *affects* to think me the *guilty* person,

person, and he stands *proved an honourable*
man."

THE COURT, having considered the Evi-
dence for and against Lieut. Col. THOMAS,
together with what he had to offer in his
Defence, is of opinion, That he is *not guilty*
of the Charge exhibited against him, and
doth therefore *acquit* him of the same.

JOHN LELAND, BRIG. GEN.
PRESIDENT.

STEPHEN P. ADYE,
DEPUTY JUDGE-ADVOCATE.

(A true Copy.)

J. A. OLDHAM.

Judge-Advocate's Office,
22d Feb. 1781.

The Paper, No. 1. referred to in page 9.

COPY of the **CHARGE** exhibited by Lieut. Col. THOMAS against Lieut. Col. GORDON, in the Presence of a Meeting of the Officers of the Brigade of Guards, assembled in the Camp on the Heights of Fordham, on the 2d of August, 1780.

LIEUT. Col. Thomas accuses Lieut. Col. Gordon of not doing his Duty before the Enemy on the 23d of June, 1780.

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Lieut. Col. Gordon, in consequence of this Charge, ordered Lieut. Col. Thomas into an Arrest at large.

THO. COLLINS, M. BRIGADE.

Given the 5th of August,
1780.

To Lieut. Col. Gordon.

